This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

FED-DOCS

Y4. IN8/3:L85/1

LONG AND SHORT HAUL BY COMMON CARRIERS

HEARINGS

BEFORE THE

COMMITTEE ON INTERSTATE COMMERCE UNITED STATES SENATE

SIXTY-SIXTH CONGRESS.

FIRST SESSION

ON

A BILL TO AMEND SECTION 4 OF THE ACT TO REGULATE COMMERCE, PASSED FEBRUARY 4, 1887, AND SUBSEQUENT AMENDMENTS THEREOF

54-1

WASHINGTON
GOVERNMENT PRINTING OFFICE
1919

COMMITTEE ON INTERSTATE COMMERCE.

ALBERT B. CUMMINS, *Chairman.*

CHARLES E. TOWNSEND.
ROBERT M. LA FOLLETTE.
MILES POINDEXTER.
GEORGE P. McLEAN.
JAMES E. WATSON.
FRANK B. KELLOGG.
BERT M. FERNALD.
JOSEPH S. FRELINGHUYSEN.
DAVIS ELKINS.
ELLISON D. SMITH (South Carolina).
ATLEE POMERENE.
HENRY L. MYERS.
JOSEPH T. ROBINSON.
OSCAR W. UNDERWOOD.
JOSIAH O. WOLCOTT.
AUGUSTUS O. STANLEY.

JOHN BRIAR, *Clerk.*

LONG AND SHORT HAUL BY COMMON CARRIERS.

TUESDAY, JUNE 10, 1919.

UNITED STATES SENATE,
COMMITTEE ON INTERSTATE COMMERCE,
Washington, D. C.

The committee met, pursuant to call of the chairman, at the room of the committee, 410 Senate Office Building, at 10 o'clock a. m., Senator Albert B. Cummins (chairman) presiding.

Present: Senators La Follette, Poindexter, McLean, Watson, Kellogg, Fernald, Frelinghuysen, Elkins, Pomerene, Robinson, Underwood, and Stanley.

The committee had under consideration the following bill:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Act of Congress of February 4, 1887, to regulate commerce, and as subsequently amended be, and the same is hereby, further amended so as to read as follows: "It shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers, or of like kind of property, for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through route than the aggregate of the intermediate rates subject to the provisions of this act, but this shall not be construed as authorizing any common carrier within the terms of this act to charge or receive as great compensation for a shorter as for a longer distance.

"Whenever a carrier by railroad shall, in competition with a water route or routes, reduce the rates on the carriage of any species of freight to or from competitive points, it shall not increase such rates unless after hearing and an order granting permission therefor by the Interstate Commerce Commission."

This act shall take effect sixty days after its approval by the President.

The CHAIRMAN. The committee will be in order. I will make an announcement with respect to this matter.

The committee is in session to hear those who are interested in the bill introduced by the Senator from Washington (Mr. Poindexter), proposing to amend section 4 of the interstate commerce act, commonly known as the long-and-short-haul section. Inasmuch as the application for the hearing came from those who are opposed to the bill, I will ask whether they will be heard first, and I will also ask whether they have had a consultation and have selected representatives through whom they are to be heard?

Mr. HENRY C. BARLOW (Chicago). Mr. Chairman and gentlemen, I am here representing the National Industrial Traffic League. The program mapped out amongst ourselves this morning is specifically as follows: As I have a very important engagement in Milwaukee tomorrow afternoon, I am anxious to leave here at 1.30 o'clock, and

10 26SU XL 2398

the gentlemen have agreed that I shall speak first, followed by Mr. Lincoln, of New York, representing the Merchants' Association; by Mr. Chandler, of Boston, representing the Boston Chamber of Commerce; by Mr. Rich, of Boston; by Mr. Davis, of the Boston Wool Growers' Association; by Mr. Morgan, of Galveston; by Mr. Martin, of Natchez; by Mr. Wilson, of Philadelphia; by Mr. Floersheim, representing the California sugar growers and refiners; Mr. Foos, of the California citrus fruit growers. They would be pleased to address the committee in the order in which I named them, if that is agreeable to the committee.

The CHAIRMAN. Can you give the committee any idea of the length of time that will be required to hear the gentlemen whom you have named?

Mr. BARLOW. The speaker ought not to consume to exceed half an hour; the other gentlemen not to exceed that time each, I believe. That would depend, of course, upon the temper of the committee as to examination, etc.

The CHAIRMAN. You may proceed.

Senator POINDEXTER. May I ask a question of this gentleman? The principal request for a hearing on this bill came through Senators from New England. Are there any witnesses here representing the New England interests?

Mr. BARLOW. Yes, sir; there is Mr. Chandler, of the Boston Chamber of Commerce, and Mr. Rich, representing the New England people.

The CHAIRMAN. You may proceed, giving your name, occupation, and residence.

Mr. BARLOW. We appear here, Mr. Chairman, the gentlemen I have named, and the organizations they represent, in opposition to the proposed change in the fourth-section law.

Senator KELLOGG. May I make the suggestion to these gentlemen that as so many of them are going to speak it seems to me it would be wise if they could get together and consolidate, somewhat; they are bound to reiterate the same story. It is simply a suggestion, as our time is limited. That is all I wish to say.

STATEMENT OF MR. HENRY C. BARLOW, TRAFFIC ATTORNEY FOR THE CHICAGO ASSOCIATION OF COMMERCE.

Mr. BARLOW. Mr. Chairman, I will say that I am the traffic attorney for the Chicago Association of Commerce, a civic and transportation organization, and civic commercial and transportation organization, comprising in its membership substantially all prominent shippers in the city of Chicago.

I appear here not only for that organization, but for the National Industrial Traffic League, the Illinois Manufacturers' Association, and the Illinois Traffic League.

The Illinois Manufacturers' Association is an organization embracing in its membership substantially all of the prominent manufacturers within the State of Illinois. The Illinois Traffic League is an organization local to Illinois. It has memberships from Missouri, Iowa, and Wisconsin, the traffic relations of the four States being so closely interwoven with each other. The National Industrial

Traffic League has a membership of 630, and I shall be glad to leave with the committee a list of its membership. They embrace commercial traffic men and large and small shippers located all over the United States, from Maine to California and from the Gulf to the northern boundary.

That organization has always opposed a rigid fourth-section law. They believe it is inimical to the successful development of the commerce of the country and to the welfare of the carriers. Last winter the organization appeared before the House committee, and the statements made by the committee appointed to appear before the House are contained on pages 198 to 279, inclusive, of the House record on the bill 9928, to which, if I may be permitted, I kindly beg to invite your attention. The men, farmers, and organizations that I represent are opposed to the amendment to the act to regulate commerce that will bring about a rigid application of the so-called long-and-short-haul principle of the act, believing that the act as it now reads—that is, the fourth section—is conducive to the greatest good to the greatest number. We are persuaded from long observation and experience that the Interstate Commerce Commission should continue to exercise the broadest discretionary powers in respect to this phase of the act as each case presents a different and varying aspect. In some cases relief may be very properly refused; in others a refusal to grant relief would work, in my opinion, irreparable harm to both shippers and carriers, with no apparent compensatory benefit to anyone. In our opinion, no fixed rule can be laid down that will meet the requirements of the carriers, nor the commerce of the country.

As I see and understand this subject, it presents two transportation phases, both of which can, and in our opinion will, under the act as it now reads, be properly solved in time by the Interstate Commerce Commission in the larger interest of the public and the carriers. These two phases are the applications for relief to meet water competition; second, applications for relief to permit the longer to meet the rates of the shorter lines between given points.

Now, there are in our opinion constantly arising innumerable cases where relief in whole or in part may be properly granted in both instances to the benefit of all concerned. There are undoubtedly many cases arising where relief may not be granted. If this be true, and we believe it is, and further, if it be our desire and intention to further the broadest distribution of commerce between all sections of the country, as well as protecting the just interests of the carrier, does it not follow as a logical conclusion that each and every case arising under the act should be subject to the rule of reason instead of unyielding fiat? We are persuaded and urge you to this conclusion.

Permit me to speak briefly to the two phases of the question as I view them. They are the same in principle and in effect. The coming of a boat bringing goods from a new point of origin, not only seriously disturbs the rate at destination port but affects the distribution of goods from all points; that is to say, if canned goods have been moving from Iowa or Wisconsin or Illinois, as illustrative, to San Francisco under a normal adjustment of rates and the coming of a boat carrying canned goods from Maine or some other Atlantic seaboard point seriously disturbs the normal adjustment of rates,

then two things must happen—the carriers must lose the revenue derived from the carrying of canned goods from Maine entirely, or fairly and properly, under regulation, make such rates as would probably give them a share of the business; otherwise their revenues are depleted to the extent of the loss of business or, on the other hand, if the unrestricted water competition succeeds as it often does to our own knowledge in diverting the distribution of canned goods from Iowa, Illinois, and Wisconsin and San Francisco to eastern manufacturers, not only is the revenue of the carrier disturbed and reduced by the loss of that traffic, but those communities not perhaps so fortunately situated as to water as the eastern communities, lose the business.

The result of this is not a free and fair distribution of the commerce of the country under normal rates, but the centralization of traffic in more favorably located territories, so far as water competition is concerned.

Now, it would seem to the speaker, that it is better policy, as stated by the Interstate Commerce Commission, that this so-called water competition would not only be met in fair part from the points threatened in the east by water competition, but in view of the fact that the haul from western producing points is from a thousand to 1,500 miles nearer, it would be preferable to meet in part at least that competition from the western markets. May I illustrate a little further?

Assume that these canned goods should come from Alaska instead of from Iowa, and there should be the threatened points of competition by water from Alaska, must those carriers build a railroad to Alaska in order to meet that competition, or should they be permitted, under fair regulation, to make such rates from the western producing points as to keep those producing territories on a fair competitive level with the subnormal situation created by the water competition?

We believe that is the proper mode and method to pursue. It will always be borne in mind that whatever disturbance is created at the point of destination by water, will exist to greater or less extent whether the rail carriers join in the movement of the traffic or not, and the destination on the Pacific coast will enjoy in large measure whatever lower system of rates the water creates for them, and it will work, so far as commercial competition is concerned, with just as serious and great an effect upon the interior communities as though the rail lines carried the business themselves.

Now, as to the so-called inland fourth section application—I mean by that where the long line undertakes to meet the rate of the shorter line—that is thought by many to be the more important phase of the question, and is illustrative of the measure of relief which is granted in cases of that kind, as compared with the measure of relief, or the relief granted where water competition is the cause. The Interstate Commerce Commission has permitted their fourth section department to make a summary of their operations—the operations of that department, the fourth section board, so-called, since the passage of the act of June 18, 1910, and with the permission of the chairman, I would be glad to leave copies of this statement with you.

The CHAIRMAN. That will be incorporated in the record with your remarks.

Mr. BARLOW. I thank you, Mr. Chairman.

(The paper referred to is here printed in full as follows:)

FOURTH SECTION BOARD.

JUNE 7, 1919.

Memorandum to Commissioner Clark.

The following is the information brought down to date, as requested by Mr. H. C. Barlow, traffic director of the Chicago Association of Commerce, in his letter addressed to you under date of June 4, 1919:

Total applications filed	11,377
Filed prior to Feb. 17, 1911	5,031
Filed since Feb. 17, 1911	6,346
Total orders issued which have disposed of applications in full	8,401
Orders granting the authority sought in whole or in part	5,500
Orders denying applications in toto	2,901
Applications disposed of by withdrawal without issuing orders	304
Applications still undisposed of	2,672

Of the 2,672 applications just mentioned, hearings have been held on approximately 500, which are now before the commission for consideration in one report.

Of the total 5,031 applications filed prior to February 17, 1911, only 19 related to transcontinental traffic.

FOURTH SECTION BOARD.
By GADDESS.

FOURTH SECTION BOARD.

JUNE 9, 1919.

Memorandum to Commissioner Clark.

Supplementing our memorandum of the 7th instant, respecting fourth section applications, etc., we beg to advise that of the original 5,031 applications filed prior to February 17, 1911, only 145 ask for relief based solely on the ground of water competition; while 130 others were based partially on the ground of water competition, making a total of 275 of the original 5,031 which ask for relief because of water competition.

The reason for stating the number of original applications filed prior to February 17, 1911, is as follows:

The fourth section as amended June 18, 1910, was by its terms to take effect 60 days from the date of its approval, and this section provided that no rates or fares in force at the time of the adoption of the amendment should be required to be changed by reason thereof for six months, nor until the applications of the carriers for relief, when filed with the commission, had been acted upon. It was the opinion of the commission under this phraseology that the carriers had until February 17, 1911, in which to file applications for relief from the fourth section, and that they were protected by these applications until each application had been investigated and acted upon by the commission. Therefore, nothing could be done until February 17, 1911, since the statute did not require changes in rates until that date.

FOURTH SECTION BOARD.
By GADDESS.

Senator POMERENE. Does that statement discuss the effect of this law?

Mr. BARLOW. No, sir; I want to show the relation between the relief requested by reason of water competition and the relief requested by reason of the longer line meeting the shorter line rates. I want to show how much importance one is as compared with the other; I want to show also what the commission has done with these fourth section applications since the amendment of the law in 1910.

The total number of applications filed with the Interstate Commerce Commission up to June 4, 1919, is 11,377. Now, the commit-

tee will know that that does not mean the number of fourth-section violations. One application might cover 500 violations on a single line. Filed prior to Feburary 17, 1911, when the law was changed, or became operative, 5,031; filed since February 17, 1911, 6,346. The total orders issued by the commission, which have disposed of the applications in full, is 8,401; orders granting the authority sought, in whole or in part, 5,500; orders denying application in toto, 2,901; applications disposed of by withdrawal without issuing orders, 304; applications still undisposed of, 2,672. Of this number 500 are now before the commission in one docket.

It is interesting to invite attention to the fact that of the total of 5,031 applications filed prior to February 17, 1911, only 19 related to transcontinental business. It is further interesting to note——

Senator POMERENE. What do you mean by transcontinental business? Do you mean business that goes entirely to the coast?

Mr. BARLOW. And affecting intermountain rates. I referred to the cases of applications that have been filed granting relief to the Pacific coast carriers on intermountain traffic.

Senator POINDEXTER. Those applications may be only 19, but they cover a large part of the United States?

Mr. BARLOW. They were included in 19 applications, but included just the intermountain points.

Senator POINDEXTER. I was pointing out the fact that you can not estimate the importance of them by the number of them.

Mr. BARLOW. That is quite true, Senator, but I further beg to advise the committee that of the 5,031 applications filed up to February 17, 1911, 145 asked for relief based solely on the ground of water competition, and 130 others were based partially on the ground of water competition, making a total of 275 applications on account of water competition, out of a total of 5,031.

Senator POMERENE. And those are applications by whom?

Mr. BARLOW. By the railroads to the Interstate Commerce Commission, seeking relief under the fourth section, either on account of water competition or because of the desire of the long line——

Senator POMERENE. They got their relief, did they?

Mr. BARLOW. In part. Now, I do not think that the carriers should be permitted, as they were before the law was amended, to work their own will and pleasure in regard to violations of the fourth section. It is my firm conviction, and I have been in most of these intermountain cases for the last 15 years—that if the law had read in the beginning as it does now, in large measure the complaints arising would have been long years ago satisfied.

I want to suggest to the committee, if it be proper that I do so, that in my judgment the law should be further strengthened in this particular phase, to the extent that the commission be given the power to make minimum as well as maximum rates. I believe if that is done it will go very far toward satisfying the complainants in cases of this kind.

Senator POMERENE. May I ask you a question at that point, or do you prefer to complete your statements before being asked questions?

Mr. BARLOW. At your pleasure, Senator.

Senator POMERENE. The State of Ohio is one of the great industrial States of the country. Its relative position to the Atlantic

coast is substantially the same as that of the intermountain region to the Pacific coast. Is it your judgment that it would be right for the Interstate Commerce Commission to make a rate for shipments to the far West through Ohio to New York, Philadelphia, and Boston, at less rate than they would allow shipments to great industrial centers like Cleveland, Columbus, Cincinnati, Youngstown, Canton, and Akron?

Mr. BARLOW. That would depend entirely, in my judgment, upon the circumstances and conditions surrounding the transportation, and the necessity for such action as you suggest.

Senator POINDEXTER. What do you mean by the necessity for it?

Mr. BARLOW. The question would arise, is it proper for the railroads to participate in some of the traffic from the Pacific coast, say, to New York, at a lower rate than the rate, say, to Chicago or points in Ohio? Under the present law the commission is empowered to fix the extent to which that may be done. Now, if the carriers can make some profit out of hauling goods from San Francisco to New York at a lower rate than they charge to Chicago the commission should be empowered to say whether that should be done or not, and if so, what effect it should have upon the rates to Chicago and to points in Ohio.

Senator POINDEXTER. Let me ask you a question. Suppose they did that—made a lower rate to Boston, New York, Philadelphia, and to these industrial cities of Ohio, do you think the industrial cities of Ohio could continue to do business?

Mr. BARLOW. Well, the rate from San Francisco to New York would be in effect anyhow by water. The results, following the water rates, would be exactly the same in Chicago and Ohio, as they would if the rail lines were permitted to participate in some of the traffic, provided they found the authority to do so, and took upon themselves to discharge, subject to the rule of the Interstate Commerce Commission, justice to the interior point, whatever that may be, and that is as I interpret the present law.

Senator POMERENE. In other words, you would destroy the Ohio industries because they did not have the advantage of ocean transportation?

Mr. BARLOW. No; I am trying to preserve them, if you please, and I believe the present law does so.

The CHAIRMAN. Are there any such rates now?

Mr. BARLOW. Yes. Let me illustrate that. The rates on sugar from San Francisco to Chicago are less than they are to Kansas City.

The CHAIRMAN. But as to Ohio points they are not the same as to Chicago?

Mr. BARLOW. Yes; but I think the principle that is involved is the same, and I happen to have an illustration in my mind. The rates on sugar from the Pacific coast are governed by the rates from New York and New Orleans. They must be. It is bringing the cane sugar from the Hawaiian Islands and beet sugar from Colorado and Utah, or from Utah and Idaho into the Chicago market as against the Cuban sugar. If the rates were to be higher than a given fixed basis from the coast on the beet sugar to the west of Chicago, then from New York or New Orleans, the western sugar industry

could not reach the Chicago market, which takes perhaps a million and a half bags a year.

Now, I say that is under the rule of reason, fixed by the Interstate Commerce Commission, permitting our own industries to meet foreign competition. I do not see that that outrages any community provided that the rates to that community not enjoying perhaps as low a basis, are fixed by the commission as just and reasonable. Have I answered your question in my own way, Senator?

Senator POMERENE. Not satisfactorily.

Mr. BARLOW. I would be glad to answer it in any other way.

Senator POMERENE. If that is applying the rule of reason, I do not know what the rule of reason is.

Mr. BARLOW. I think it is, Senator.

Senator POMERENE. Well, we will have to differ.

Senator KELLOGG. I do not see how it hurts Ohio points where the freight is going to New York by boat cheaper anyhow. I can not see how it hurts them. They will get there by boat at that rate.

Mr. BARLOW. It is bound to go there, and conditions are established by that water rate, no matter whether the rail lines get it or not. Dealing further with this interior long and short haul——

Senator POINDEXTER. May I ask you a question before you leave that point? If that should be the case, how is it going to hurt New York, Boston, and Philadelphia, if they get the low rate anyhow by water; how will the change hurt them?

Senator MCLEAN. It will hurt the railroads.

Senator POINDEXTER. That is a different standpoint, hurting the railroads. That is a different question. That can be taken care of.

Mr. BARLOW. No; if the committee please——

Senator MCLEAN. You will have to abandon the railroads running through Ohio? It would not benefit Ohio.

Mr. BARLOW. The railroads must have a certain amount of revenue; I think we will admit that.

Senator POINDEXTER. There is one question as to the interests of the community, the manufacturers at the ports, and another question as to the adequate rates for the railroads. I believe they should have adequate rates, but that is an entirely different question from the effect of the whole fourth section upon terminal ports.

Mr. BARLOW. Yes; that goes into another phase of the question. My position is that the carriers must have a certain amount of revenue. The question arises how are they to acquire it? Only by rates. If they are compelled to reduce all their interior rates to the same or a lower basis than compelled by water competition, or by the short line, where are they to get the revenue except by further advancing the rates or by penalizing all communities that are not on the direct line? Somebody must make up the deficit in some way.

Senator POMERENE. And you prefer to do it by penalizing the intermountain region, or the Ohio region, for it applies to that?

Mr. BARLOW. I would answer that yes, provided the penalty is not undue or unjust. I think whenever a rail carrier asks permission to violate the fourth section to meet water-compelled rates, it takes a certain duty upon itself to treat all interior communities justly and fairly. In my opinion, rates ought never to be built on the full combination of locals on some water port. The interior country is entitled to fair relief whenever water-compelled rates force an adjust-

ment to farther distant points; but I am contending that that measure of relief and the fixing of the extent of relief at the interior point must be left to the discretion of the Interstate Commerce Commission and not undertaken to be controlled by absolute fiat.

Reverting to the long and short haul as applied to the long versus the shorter carrier in official classification territory, which embraces all the territory north of the Ohio and Potomac Rivers and east of the Mississippi River, I think it is fair to say that 75 per cent of the tonnage of the country passes between or finds its origin or destination in that territory, and in that territory there have been fewer complaints of the adjustment of rates than in any other territory in the United States. The adjustment of rates, generally speaking, in that territory is now nearly 43 years of age. It has been modified to some extent, but it is substantially as originally established in 1876.

Now, the trunk line scale, as the committee knows, divides the country east of the Mississippi River into zones. There are innumerable violations of the fourth section in that territory. There must necessarily be.

Senator POMERENE. What territory was that?

Mr. BARLOW. That is the territory north of the Ohio and Potomac Rivers and east of the Mississippi River, known as official classification territory. It has been the intention and desire that all roads, regardless of their length, should fairly compete for the business of that territory. If that were not permitted, in the judgment of the speaker many communities, being on the longer line, would find themselves entirely outside of their zone rates. Again, a large proportion of the transportation facilities in that territory, as well as the rest of the country, would be substantially eliminated, to the detriment of the shippers and to the congestion always of the short line. No complaint, to my knowledge, has ever arisen in that territory producing such an enormous traffic in respect to the fourth section.

The CHAIRMAN. I wish you would give the committee some example of those violations in trunk-line territory.

Mr. BARLOW. Well, you may start at Buffalo, which takes a basis of rate of 60 per cent of the Chicago and New York rate. We then go west to Chicago, to the 100 per cent point; Indianapolis, 93 per cent; Detroit and Cleveland, 78 per cent; St. Louis, 117 per cent, plus bridge toll.

The CHAIRMAN. I do not see in those any examples of any violation of the fourth section.

Mr. BARLOW. I would like to explain, if you please. Take the business moving by water from New England through Newport News to Chicago. That business must pass through higher rate groups in the southeast than the Chicago rate—that is to say, the rates from Norfolk to points in Kentucky are higher than the rates from Norfolk to Chicago. Again, you take the group directly west of Buffalo, which is a 67 per cent group. The direct line is over the New York Central and Lake Shore, but the Baltimore & Ohio and Pennsylvania must work through the higher rate groups to get into that territory. That is true all over that territory.

Senator POMERENE. When you speak of no complaints having been filed, do you mean complaints before the Interstate Commerce Commission?

Mr. BARLOW. Yes, sir; as to the fourth section.

Senator POMERENE. I happen to know that some years ago a good many complaints were made by Cincinnati because the rates to Denver from Cincinnati in carload lots were very much higher than the rates through to San Francisco, so that some of the manufacturers at the time were shipping their Denver freight through to San Francisco and doubling back to Denver.

Mr. BARLOW. That is quite true, but I want to give you to understand that I meant there had been no complaints of violation of the fourth section in official classification territory—not as to the intermountain traffic. I would like to give one illustration of the effect of the prohibitive law in regard to the longer line meeting the rates of the shorter line—and this illustration is only one of numerous similar instances.

Take a man located at the point of origin and one at the point of destination on the long line. It may be 100 miles, the longest line, or 50 miles. There may or may not be switching arrangements at either the point of origin or point of destination. If there is not, the man must ship by the longer line, and if he is not permitted to enjoy the short-line rates he must pay a higher rate than is freely offered to him by the short line. If there are switching arrangements, then he is penalized in the expense of switching at both ends. Now, if he pays the switching charges and ships via the shorter line, is the shipper on the longer line outraged provided his rates be fairly and reasonably just? I think not.

Those cases are innumerable all over the country. There is just one other phase of the question that I would like to discuss for a moment, and then I will finish, and that is the express situation. The express companies are now operated as one concern, I understand, under the United States Railroad Administration, to a certain extent, at least. Their rates are fixed entirely by the Interstate Commerce Commission under the general plan of establishing rates. There are, of course, myriads of fourth-section violations. There must be, in the very nature of things, because the express schedule is fixed in zones of about 50 miles square, and on all the various railroads that operate through, into and out of those zones, in innumerable instances traffic does pass through the higher-rate zone to reach a lower one. It seems to me that is necessary, as I have said in the railroad case, else the community would be seriously affected, and, in many instances, a large part of our transportation facilities would be taken away from us.

Now, I want to state again, if I may repeat, that the question may arise that the carriers will meet these water-compelled rates anyway. I doubt that in many instances. I am a member of the western freight traffic committee in Chicago, representing shipping interests, and I have seen hundreds of cases where those interests were concerned where roads voluntarily retired from the business. They can do that under the present form of guarantee, I admit you, but the question will always arise in meeting water competition: What is the value of competitive traffic and what is the value of interior traffic? Bear in mind there are many roads seeking, say, the competitive traffic of San Francisco. No one road can do but its share; it may be a small proportion and it may be a very large

proportion, compared with the value of the intermediate business. Will it sacrifice its intermediate business? I think not. Suppose that road goes out of the traffic; suppose, if you please, several of the roads go out of the traffic, and two or three stay in, what will be the result? Those communities that happen to be located upon a road that stays in—and you can not compel them to stay in, I understand—will enjoy rigid fourth-section terminal rates. Say that is the Union Pacific and Central Pacific. That would not give Phoenix any relief nor Arizona nor New Mexico, and that will lead to recognized discrimination in my judgment, much more so than though they were all permitted to go in under proper restraint; and the question of relief should be fixed by the commission and have it, as it always has up to this time, since the present law became effective, effectively reduce the intermediate rates.

I think that is all I have to say, unless there are some questions that some one desires to ask me.

The CHAIRMAN. Have the members of the committee any questions to propound to the witness?

Senator POINDEXTER. I would like to ask about this case of Hawaiian sugar which you mentioned, the lower rate to Chicago on Hawaiian sugar, and the higher rate to Kansas City. Is that rate to Chicago a profitable rate to the railroads?

Mr. BARLOW. I presume it is, but it is not such a profitable rate that they could carry all of their commerce on it. It is better for them, perhaps, to participate in that traffic at some rate that will more than pay the out-of-pocket cost than to yield it entirely to the eastern refiners refining Cuban sugar, the result being that our western sugar producer can not reach the greatest markets in the West, the cities of Chicago and St. Louis.

Senator POINDEXTER. If they raised the rate to Chicago so as to be equal to the rate to Kansas City, your theory is that the Cuban sugar would dominate the Chicago market?

Mr. BARLOW. To my knowledge it would; it is not a theory.

Senator POINDEXTER. It would?

Mr. BARLOW. Yes, sir.

Senator POINDEXTER. I am speaking now of the interest of Chicago. It would not be injured in any way at all; it would get its sugar at the same rate.

Mr. BARLOW. It would be interested to this extent——

Senator POINDEXTER. Will you not answer that question as to whether it would or not?

Mr. BARLOW. Chicago would be affected.

Senator POINDEXTER. Would it be injured, so far as getting its sugar in certain ports is concerned?

Mr. BARLOW. I think so; I think any community is injured where it must depend upon just one source of supply. Communities thrive, in my opinion, because they are absolutely open markets, and anybody can come in there and sell.

Senator POINDEXTER. Let me pursue that a little further. You say it depends on one source of supply. How would it depend on one source of supply so long as there was opportunity to get sugar from another source of supply at the same rates. If the Cuban rate was put up to an exorbitant point, then the Hawaiian sugar

would come in. You always have what they call potential competition.

Mr. BARLOW. The assumption is if the rates from the East go up the coast rates will follow, and the relative situation would be the same, and the beet sugar of the West would be excluded from the Chicago market.

Senator POINDEXTER. I understand your theory is—not so far as Chicago is concerned, but so far as the business of the railroads is concerned—they ought to be allowed to put the rates down to Chicago, so as to get that business at what is called the "out-of-pocket" cost and keep up their rates at the intermediate points so as to earn dividends upon their investment?

Mr. BARLOW. Partially that, but if I had only in mind the interest of the carriers I would not be before this committee. I am here in the interest of the shipping public, trying in my humble way and very simple way, to explain to you what the necessities of the commerce of this country are in respect to this matter.

Senator POINDEXTER. As a matter of fact, you are here in the interest of the shippers of Chicago?

Mr. BARLOW. I am here representing the National Industrial Traffic League, composed of shippers from San Francisco to Portland, Me.

Senator POINDEXTER. They are all shippers that enjoy favorable discriminatory rates?

Mr. BARLOW. No, sir.

Senator POINDEXTER. Are you here representing any point against which a high, unfavorable, discriminatory rate is charged?

Mr. BARLOW. That I can not answer, as I am not familiar with it.

Senator POINDEXTER. Of course, if you do not know it, you can not answer it.

Mr. BARLOW. I am not familiar with the adjustment at all points.

Senator POINDEXTER. My understanding is you represent points that benefit by this discrimination and you want to retain that benefit.

Mr. BARLOW. No; I do not think I do. I do not think any discrimination would be unjust or unreasonable as stated by the law, under the control of the Interstate Commerce Commission, as it is now.

Senator POINDEXTER. At any rate, the points you represent get their goods at a lower rate for a long haul, whereas the points complaining against that get their goods at a higher rate for the short haul.

Mr. BARLOW. As I represent——

Senator POINDEXTER. Is not that the case?

Mr. BARLOW. To some extent.

Senator POINDEXTER. Is it not altogether so?

Mr. BARLOW. No; I represent Kansas City and Omaha, and their rates on sugar are higher than to Chicago.

Senator POMERENE. From where?

Mr. BARLOW. From the Pacific coast.

Senator POINDEXTER. They are trying to retain this righ rate?

Mr. BARLOW. No, sir; they are trying to persuade you gentlemen not to amend the law but to leave it to the Interstate Commerce

Commission to adjust the matter. This adjustment on sugar was made by the Interstate Commerce Commission.

Senator POINDEXTER. I do not think there would be any—I was going to say—great fight made on behalf of the community that comes here asking that high rates be maintained—discriminatory rates.

Mr. BARLOW. No one is here asking that. We are here asking that the rule of reason, as read into the present act, be maintained; that the commission may settle these matters, with the sincere belief that when the roads pass back to their corporate ownerships the commission will so adjust these complaints as that they will gradually disappear.

Senator UNDERWOOD. Mr. Chairman, taking sugar as a theoretical question, I have nothing to say about the argument; but taking it as a matter of fact, it has been demonstrated before the committees of Congress heretofore conclusively that Chicago and Kansas City and St. Louis are not competitive points on sugar. The only time competition comes into those points between the intermountain sugar and the eastern seaboard sugar is when the intermountain sugar is not supplying the market. There is a period when intermountain sugar has to be sold immediately. It is not a sugar that can be carried over. It disintegrates by being held for a length of time, and therefore it must be forced on the market; and at the time the sugar is moving from Colorado and these Western States into these markets there is no competition under the present rates involved whatever and never has been. The line of competition lies nearer to the Allegheny Mountains than to Chicago—I mean the true line of competition under the rates of the past. It is only when the intermountain sugar ceases to have a sufficient supply to supply these western markets that the Atlantic seaboard sugar can move in at all. I just wanted the record to show that, because I do not want this case to be tried on the question of sugar. If it is a theoretical statement, it is all right. I suppose there are other commodities to which the argument would apply. But the demonstration before the committees of the House has clearly established the fact that the competitive point is not that far west and never has been.

Senator POINDEXTER. That completely refutes the argument of the witness. He based it on the theory that it was a competitive point.

Senator UNDERWOOD. It is only competitive when the intermountain sugar is not supplying the market.

Mr. BARLOW. We have a witness here representing Hawaiian and Californian sugar interests, and he will speak more plainly to that phase of the question than the speaker. I think he will make it quite plain to you what the competitive situation is.

Senator UNDERWOOD. The only reason I say that is because I have gone through this question very often.

The CHAIRMAN. Is there any other member of the committee who desires to ask any questions?

Senator POMERENE. Let me call attention to one fact. As I recall, it was shown before this committee at the last session of Congress that when water transportation through the Panama Canal was suspended the rates to the Pacific Coast were so changed as that there was less discrimination between the intermountain rates and the

Pacific coast rates than there was while the water transportation continued. That is right, is it?

Mr. BARLOW. That is right.

Senator POMERENE. Then, of course, that means not only, if you are to change these rates, that San Francisco, to illustrate, shall be benefited by the water rates, but it means at the same time that the intermountain region shall be injured by reason of the fact that there are water rates. You are driven to that conclusion.

Mr. BARLOW. Basing it wholly on water rates, I think so. That is to say, the rates to San Francisco would constantly go down by water, without any change in intermountain rates, provided you had a rigid Fourth Section, and the roads went out of the terminal business?

Senator POMERENE. Yes; but now you are injuring the intermountain region in two ways. First, by the water rate, and, second, by a change in the railway rate, when that seems to be necessary in order to meet these water rates. That is, the intermountain region is affected by it.

Mr. BARLOW. Well, the present law provides that the Interstate Commerce Commission shall say to what extent they are injured, and the result has been that with the advance in the rates to the Pacific coast, with the cessation of water competition, my recollection is that the rates to the intermediate points have not been injured.

Senator POMERENE. I know that is the position taken by men of your school of thought, and I have great respect for the Interstate Commerce Commission; but as a matter of fact by the orders which they have made they are discriminating between the intermountain region and the Pacific coast. That is a fact, is it not?

Mr. BARLOW. I can not admit that is a fact, but I submit that is a criticism of the commission and not of the law.

Senator POMERENE. Very well; and if there has been a mistaken rule, as some of us contend, adopted by the Interstate Commerce Commission, it seems to me it ought to be corrected. Now, let us go a little further. Let us assume for the sake of argument that the intermountain region has potential possibilities which would make it as important a commercial center as the Pacific coast, and let us go a little bit further and assume that there are as strong financial interests in the intermountain region as there are on the Pacific coast; would that fact change your view as to what the rates should be?

Mr. BARLOW. Not if the rates are made by water; no.

Senator KELLOGG. You would have to assume, would you not, that the Pacific Ocean should extend into Nevada?

Mr. BARLOW. To a certain extent. I should say yes, if railroad transportation were the dominant factor.

Senator POMERENE. The trouble with the suggestion of the Senator from Minnesota is that in order to carry out his position, we ought to destroy water rates entirely.

Senator KELLOGG. Not at all.

Senator POINDEXTER. You want to move the Pacific Ocean away from San Francisco.

Senator MCLEAN. You could take up the intermountain railroads and then the intermountain region would not suffer by water competition.

Senator POMERENE. That is possibly true.

Mr. BARLOW. I invite attention, Senator, to this: What would be the result if water competition came back in its full measure between the Atlantic and the Gulf and the Pacific coast and not a single transcontinental line met those rates?

Senator POMERENE. This is the way the though presents itself to me. I am quite willing that every port and every community on the coast should have the benefit of its water transportation. It seems to me that is quite fair, but at the same time because a question comes up here between the railroads and water transportation that is not any reason, to my mind, why the Interstate Commerce Commission or the law should discriminate against the intermountain region in order to benefit the railroads. I may be wrong about it, but that is the way it appears to me.

Mr. BARLOW. There are a great many forms of discrimination. The question is whether they are undue and unreasonable. I believe the present law gives the commission the power to determine that question, and if you will go further, if you please, and give them power to make the rate in the intermountain country I believe these complaints will largely be satisfied.

Senator POINDEXTER. You admit there is merit in that complaint?

Mr. BARLOW. I will admit it to this extent. I have been associated with this transcontinental traffic since 1884, when I was general freight agent of the Santa Fe. I believe great abuses grow out of the method of handling the transcontinental rates. I favor the amendment to the law as it stands now as a controlling influence, and I repeat where the roads take upon themselves the right to meet water competition they take upon themselves a duty to the intermountain country and all other intermediate territories, and the commission has now the power for the first time to regulate this matter, and I am trying to persuade you to let it remain there and let this problem be worked out by the rule of reason rather than by fiat.

Senator POINDEXTER. It has been eight years since that amendment was passed. I do not think the amendment has substantially changed the situation. It has left the commission with the same discretion it had before. We will assume, for the sake of argument, that the amendment did grant a relief which you claim it did. You admit there is merit in the complaint that these abuses should have been remedied. We have been trying for eight years under this amendment to get them remedied. Your theory is if we go on for eight years more we will get the relief?

Mr. BARLOW. No; I believe we have gotten relief in a large measure now. Three tariffs were authorized by the Interstate Commerce Commission, Nos. A and B, which did give substantial relief to the intermountain country because they were the maximum rates. Later on a special dispensation was issued, called Tariff C, which included certain commodities actively in ocean competition, and it was at a time when all the boats were running from New York and giving rates of 25 cents a hundred on many commodities from New York to San Francisco, and the commission did issue a special dispensation as to article C. The speaker is not advised that there are any rates to the intermountain region that are higher than to the Pacific coast. There may be, but I am not acquainted with them.

I can not speak for the Interstate Commerce Commission; I can only speak from my long experience and observation in these matters. I believe it is going to be hard work to get relief under the present fourth section. But competition must be controlled and it must be active. The day of getting relief by reason of potention water competition is passed. Again the relief which is sought was granted to the intermountain country early under the operation of the present law.

We then went into the World War and the commerce on the ocean all disappeared except in the one effort to win the war, and it has not come back yet. There is now, in my judgment, no reason why the rates to intermountain territory should be higher than to the Pacific coast. There is every reason, if there is no water competition, why they should be lower, but the roads are in the hands of the Government and the Interstate Commerce Commission has no jurisdiction over them.

Senator POINDEXTER. You are not speaking in the interest of the railroads. Can you name a single instance or a single city that would be injured by the passage of this bill?

Mr. BARLOW. Yes.

Senator POINDEXTER. Name one.

Mr. BARLOW. I think all cities in official classification territory would be affected.

Senator POINDEXTER. Name one.

Mr. BARLOW. I think Columbus, Ohio, Toledo, Cincinnati, Chicago——

Senator POINDEXTER. Do not name so many; name one; take Columbus; that is one you mentioned.

Mr. BARLOW. Let me name Chicago. I am familiar with that city.

Senator POINDEXTER. Take Chicago; how will Chicago be injured?

Mr. BARLOW. Because of the fact that when water competition comes back we must either have rates that will permit us to meet competition at the port of destination or lose our traffic to the manufacturing points located upon the water.

Senator POINDEXTER. What water competition? Do you mean water competition at Chicago?

Mr. BARLOW. No; water competition at New York, if you please. We are doing a certain amount of transcontinental business now. That is, we are doing a certain amount of business in San Francisco. We are doing it on equal rates with New York.

Senator POINDEXTER. What rates will be affected by this water competition? Name some commodity.

Mr. BARLOW. Take canned goods.

Senator POINDEXTER. What shipment?

Mr. BARLOW. Iron and steel.

Senator POINDEXTER. Take canned goods; what shipment, what point of destination I mean, what point of origin and destination?

Mr. BARLOW. The distribution of goods in San Francisco would be affected by water rates because canned goods instead of coming from western territory in part would come entirely from Maryland and Maine, say.

Senator POINDEXTER. How would that affect Chicago?

Mr. BARLOW. Because we would lose the business.

Senator POINDEXTER. Do you manufacture canned goods?

Mr. BARLOW. Yes; we handle the Iowa canned goods, Wisconsin goods; Wisconsin is the greatest State for canning peas, and has been seeking a market all over the world for them. We must be brought into competitive relation to rates created by a boat line making rates from Philadelphia to San Francisco, or sacrifice entirely to the eastern markets.

Senator POINDEXTER. In other words, you desire, by a preferential system of railroad rates, to be put on an equal basis with a seaport?

Mr. BARLOW. We do not ask a preferential system of rates to do that.

Senator POINDEXTER. No, but it is a preferential system.

Mr. BARLOW. I do not so understand it. We are simply seeking what we call market competition, which has been approved by the Interstate Commerce Commission in the Arizona corporation case, in order that we may preserve to some extent our traffic at San Francisco, which is the point affected by the water rate.

Senator POINDEXTER. You want to do, as the Senator from Minnesota suggested a while ago—move the ocean up into the interior of the country?

Mr. BARLOW. I think we shall, some day.

The CHAIRMAN. May I ask a question just for information? We have had the effect of water competition upon the various markets of the country pretty thoroughly exploited before the committee for many, many years. I am interested in your remark about the violations of the fourth section in order to meet land competition—rail rates. What is the short line between New York and Chicago?

Mr. BARLOW. The Pennsylvania, 907 miles.

The CHAIRMAN. What is the long line that does competitive business?

Mr. BARLOW. Well, I should say the steamers from New York to Newport News, and then the so-called Cumberland Gap dispatch that runs on down through Tennessee, and then up through Cincinnat and into Chicago; also the Canadian lines.

The CHAIRMAN. How much longer is the Baltimore & Ohio than the Pennsylvania?

Mr. BARLOW. That I can not answer. The Baltimore & Ohio does not enter New York; it stops at Philadelphia.

The CHAIRMAN. Suppose we take any town on the Baltimore & Ohio, east of Chicago. Does the Baltimore & Ohio charge more for a shipment from New York to an intermediate point than it does to Chicago?

Mr. BARLOW. No; not than to Chicago, but it does pass through higher rating zones to meet lower rating zones. That is to say, take the southern part of Ohio, which would be on about 87 per cent or 85 per cent basis, while if you go up to Toledo, Sandusky, or the lake ports, it would be on a 78 per cent basis.

Senator FRELINGHUYSEN. Does not the Baltimore & Ohio run into New York?

Mr. BARLOW. I do not understand that it does. It does in connection with the Bound Brook road.

The CHAIRMAN. I am trying to find out what instances there are in which a shipment from New York to Chicago is carried at a less rate or less charge than a shipment from New York to any point that is intermediate between those two cities.

Mr. BARLOW. That would be true, in all business that would come to Newport News by water, from New York or Boston, and then move over the Cumberland Gap Dispatch, or over the Canadian Pacific.

The CHAIRMAN. By what line does that enter Chicago?

Mr. BARLOW. Over the Big Four, or the Panhandle.

The CHAIRMAN. What is one of the nearest points to Chicago on the Big Four? Name one of the points?

Mr. BARLOW. Say, Indianapolis.

The CHAIRMAN. Does freight coming from New England to Indianapolis take a higher rate than freight coming from New England to Chicago?

Mr. BARLOW. I think not, sir; it takes a lower rate but would take a higher rate in coming through Tennessee and Kentucky, as the Cumberland Gap would operate that way.

The CHAIRMAN. What I am trying to get at is where are those points that are charged a higher rate on traffic from the East to Chicago than is charged to Chicago itself?

Mr. BARLOW. To Chicago itself, many rates on Canadian lines are higher to Chicago; many rates on the Cumberland Gap, which operates through Tennessee and Kentucky to get to Chicago are higher south of the Ohio River, and then again, as I said, lines operating, say, the Baltimore & Ohio, through southern Ohio where the rate-basing point would be 80 per cent or 85 ped cent of Chicago must go through these points to reach Toledo or Sandusky, or some point on Lake Erie, and there would be a violation, not as to the rate to Chicago, but as to the rate to Lake Erie ports, which is lower than to Chicago.

The CHAIRMAN. Would you be able to furnish the committee a list of the principal points where westbound traffic from New England, or from the Atlantic seaboard, at any point takes a higher rate than the rate to Chicago?

Mr. BARLOW. I would have to get that information from the Interstate Commerce Commission.

The CHAIRMAN. I did not know that there were any considerable violations in that section of the act upon traffic of that kind.

Mr. BARLOW. There are not to Chicago, that being the 100 per cent point, except those lines that operate through Norfolk, coming through Kentucky and Tennessee, where they meet a higher rate point.

The CHAIRMAN. There is not any very great amount of traffic that moves to Chicago that goes through Tennessee, is there?

Mr. BARLOW. We used to move a very large proportion of our traffic by water from Boston and New York to Newport News and then via Cumberland Gap Dispatch and the Chesapeake & Ohio into Cincinnati and thence into Chicago.

The CHAIRMAN. Is the rate to Louisville higher than to Chicago?

Mr. BARLOW. No, sir; but the rates south of there are higher.

The CHAIRMAN. The statement was made privately to me and I wanted to see that verified by some sort of table.

Senator POINDEXTER. There is no actual water-borne traffic between Chicago and the west coast, is there—water borne all the way?

Mr. BARLOW. No, sir; except what little may drift down the canal and the Mississippi River to New Orleans. That is nothing to speak of.

Senator POINDEXTER. On your theory that the railroads should be allowed to make low rates for the long haul to meet water competition, if you carry that out and apply it equally all over the country, would you be willing that there should be a lower rate from New York to Seattle than from New York to Chicago?

Mr. BARLOW. A lower rate from New York to Seattle than from New York to Chicago?

Senator POINDEXTER. Yes; there is water competition between New York and Seattle.

Mr. BARLOW. There is between New York and Chicago also.

Senator POINDEXTER. I understood you to say just now there was not.

Mr. BARLOW. None between Chicago and Seattle, but there is between New York and Chicago.

Senator POINDEXTER. Let us reverse the proposition, then. Would you be willing that a lower rate from Seattle to New York than from Seattle to Chicago should be established?

Mr. BARLOW. I might be under certain circumstances. In any event, I am willing to leave it to the Interstate Commerce Commission.

Senator POMERENE. What are those circumstances under which you would be willing?

Mr. BARLOW. There are a great many circumstances. The first is the rate made from Seattle to New York may be an absolutely compelled rate. Second, does the rate which the carrier proposes to make pay more than an out-of-pocket cost to the end that the meeting of that rate should not be an additional burden upon other traffic? Many of these conditions have to be considered, and I am willing to submit my case in every instance to the judgment of the Interstate Commerce Commission.

Senator POINDEXTER. The Interstate Commerce Commission always decides in your favor? [Laughter.]

Mr. BARLOW. I wish they did. Unfortunately, they do not.

The CHAIRMAN. Are there any further questions of this witness?

Senator MCLEAN. If the Interstate Commerce Commission violates the law and prescribes an unreasonable and discriminatory rate, because under the law they have no right, as I understand it, to fix an unreasonable or discriminatory rate under any circumstances——

Mr. BARLOW. That is all there is in the law.

Senator MCLEAN. If they do that the fault is with the Interstate Commerce Commission—with the order of the commission and not with the law.

Mr. BARLOW. Yes, sir; and I think the criticism before the House committee was as to its administration and not as to the law itself.

Senator POINDEXTER. You cited a minute ago the injury to be done Chicago by allowing a lower rate on canned goods by rail from New York to San Francisco than from——

Mr. BARLOW. Than from Iowa, Missouri, or Wisconsin; yes.

Senator POINDEXTER. To Chicago?

Mr. BARLOW. Yes, sir.

Senator POINDEXTER. You just stated there was no water competition. If you think by a system of preferential rates Chicago could be given the benefit of water rates, why should Denver, Spokane, Reno, and all the intermediate points be denied the same privilege?

Mr. BARLOW. Because the circumstances and conditions are entirely dissimilar. May I say this competition in effect is not in the water, nor in the boats, nor in the rating, per se; it is in the property carried. Shall the western manufacturer be permitted to meet the commercial competition created by a low system of water rates from the East and put his goods in the place affected, San Francisco, or shall we be compelled to retire entirely from that and submit to seeing our trade transferred to the water ports? Now, will it benefit the intermountain country any to see that done? Is it not destructive of our commerce?

Senator POINDEXTER. The same conditions exactly apply to these other towns that apply to Chicago, except that Chicago is a larger city and has a larger volume of business, and by reason of these preferential rates continues to get larger, and continues to have a larger volume of business, while the other cities find it impossible to expand because of the preferential rates.

Mr. BARLOW. I beg pardon, Senator; I do not view it in that way. We do not ask preferential rates.

Senator POINDEXTER. No; but you have them.

Mr. BARLOW. No; what we ask is, simply, can we be permitted, and is it proper, in view of the fact that the haul of the carriers is from 1,000 miles to 1,500 miles longer—shall the western markets be permitted to place their production at the point affected, San Francisco? Reno is not affected in the same way. It is the port, the point of destination that is affected. Shall we put our products there on a fair basis of rates that will keep us in competition with our neighbors more advantageously located on the sea? I think we should. We believe that is to the interest of the commerce of the country. It leads to the widest dispersement of commerce and it is to the interest, also, of the carrier.

Senator POINDEXTER. Why would it not be to the interest of Salt Lake City and Spokane?

Mr. BARLOW. That may be true. I am discussing the point affected by the water competition—San Francisco.

Senator POINDEXTER. I am discussing discrimination in the application of the rule.

Mr. BARLOW. The making of a less rate to San Francisco than to Reno may be discrimination. The question is, is it that undue and unjust discrimination which the law recognizes? You gentlemen, in your wisdom, have said that the Interstate Commerce Commission should determine that, and we ask you to continue that rule.

Senator POINDEXTER. We are now trying to change that.

Mr. BARLOW. We ask you not to do it.

Senator MCLEAN. How can it be any injury to a citizen of Reno, living in the intermountain section, to have competition among producers at a seaport?

Mr. BARLOW. I think injury can come to the people at Reno by an unrestricted application of relief. I believe injury and harm can come because to the greater extent the rail lines meet the water lines the lower the water-line rate goes; and, as I said before, whenever a carrier elects to haul the business a greater distance at a less rate it takes upon itself responsibilities to the intermediate points which they must recognize, and the rates to those points must be more or less affected, in my judgment, if justice is to be done by the rates made

to the terminal points, but it does not mean that they should be the same.

I believe, Mr. Chairman, the next gentleman is Mr. Lincoln, of New York.

SATEMENT OF MR. JAMES C. LINCOLN, TRAFFIC MANAGER MERCHANTS' ASSOCIATION, NEW YORK, NEW YORK CITY.

Mr. LINCOLN. In appearing for the Merchants' Association of New York I have also been asked to represent at the same time the National League of Commission Merchants of the United States, with headquarters in New York, with a membership throughout the United States; the Rubber Association of America, whose headquarters are in New York, made up of the principal rubber dealers of the United States; the Brooklyn Chamber of Commerce, Brooklyn, N. Y.; the Rochester Chamber of Commerce, Rochester, N. Y.; the Syracuse Chamber of Commerce, Syracuse, N. Y.; the Troy Chamber of Commerce, of Troy, N. Y., all of which communities are interested in the adjustment of rates from the points adjacent to the seaports to the Pacific coast and the intermountain territory. I think it might be well, and I would like to do so, to pass in review, briefly, on the history of the long and short haul clause.

The Senate committee, in its investigation in 1885, stated that no question connected with the problem of railroad regulation has given the committee more perplexity than that relating to the utility and expediency of legislation prohibiting a carrier from charging more for a shorter than for a longer haul. The remedy then suggested was a prohibition against a greater charge for the shorter than for the longer haul as between shipments of the same kind over the same road and going in the same direction.

The CHAIRMAN. That was two years before the act was passed?

Mr. LINCOLN. This is just a slight review. I will be very brief with it. A mass of testimony was then presented showing the discriminations widespread throughout the country practiced through the instrumentality of charging less for the longer haul where competitive conditions prevail than for the shorter haul, and a demand was then made for the strict enforcement of the long and short haul provision in protection of shippers at interior noncompetitive points, and to prevent carriers from charging such shippers unreasonable rates to recoup for losses sustained by carrying through freight at less than cost.

Mark those words, please: "Unreasonable rates to recoup for losses sustained by carrying through freight at less than cost."

In the wisdom of the committee there was proposed a general prohibition against the charging of greater compensation for the shorter than for the longer haul, but where the carrier could justify the charging of a lower rate, the burden of proof to be upon the carrier, then the commission might upon application authorize a waiver thereof.

The CHAIRMAN. I do not quite understand that. You say that occurred in 1885?

Mr. LINCOLN. In 1885. That was a review of the testimony taken before the Senate committee.

The CHAIRMAN. There was no commission at that time.

Mr. LINCOLN. That was the testimony taken by the Senate committee in the investigation of the charges. What is now generally known as the long-and-short-haul clause, section 4, of the act to regulate commerce, was enacted in the law in 1887. That section 4 provided that a greater charge should not be made for a shorter than for a longer haul over the same line in the same direction under substantially similar circumstances and conditions. Provision was also made at that time for application to the commission for exemption in special cases from the application of that section.

Whereas it had been the practice, prior to 1887, to give competing centers the benefit of lower rates than applied to local points, with the passage of the act of 1887 throughout official and western classification territories the intent of the fourth section—long-and-short-haul clause—was very generally observed. The application of the fourth section proved distasteful to transcontinental lines and the southern lines. Exception was taken to the enforcement of the long-and-short-haul clause, and upon an appeal to the Supreme Court a decision was rendered, by reason of the term "dissimilar circumstances and conditions" as provided for in the act, that carriers could apply a lower rate for a longer than for a shorter haul where dissimilar circumstances and conditions prevailed. In those cases it is pointed out that at certain junction points there was excessive competition as between rail carriers. At river points there was competition between rail carriers and water carriers, and that there were dissimilar circumstances and conditions outside of those created by water competition, and the Supreme Court held that the carriers, by the showing of the dissimilar circumstances and conditions could ignore the fourth section.

Under this decision of the Supreme Court, competition between carriers at terminal points and at competitive points was held as creating those "dissimilar circumstances and conditions" provided for in the act, and in consequence railroads could not be charged with a violation of the act if they charged a less rate for a longer than for a shorter haul without first securing the permission of the commission. The result of this decision of the Supreme Court—I think it was in 1887—was the building up of competitive and terminal markets to the disadvantage of surrounding local territories and a continuance of the former discriminations notwithstanding the intent and purpose of the framers of the fourth section.

The decision rendered by the United States Supreme Court in 1897 practically nullified the intent of the fourth section as originally enacted, with the result that in the absence of any restraining influence which could be successfully enforced, carriers have continued to apply very much higher rates—in some cases over 100 per cent—on noncompetitive traffic for the shorter haul although embraced within the longer.

In the 1910 session of Congress there was no one section of the bill which was prolific of so exended a debate as the fourth section, and it was shown by the records that conditions existing at this time were not dissimilar from those prevailing in 1885, thus compelling the amending of the fourth section. Whereas it had been the practice prior to 1887 to give competing centers the benefit of lower rates than apply to local points with the passage of the act of 1887,

throughout official and western classification territories the intent of the fourth section of the law was generally observed, but not in southeastern territory nor in transcontinental territory. But that amendment of section 4, as contained in the June, 1910, amendmet, which was kown as the Mann-Elkins bill, the section as amended read—section 4 as amended has the effect of striking out from the section the words "under substantially similar circumstances and conditions." A provision was also inserted pertaining to rates established by a carrier by railroad in competition with a water route. A further provision requires that a through rate shall not exceed the aggregate of the intermediate rates.

This amended section 4 is, in my judgment, one of the most important sections in the act and one of the most progressive pieces of legislation taken under the 1910 act. The amended section makes specific provision that a greater charge shall not be made for a shorter than for a longer distance over the same line or route, and that the charge for a through haul shall not be greater than the aggregate of the intermediate rates subject to the provisions of the act. The terms "under substantially similar circumstances and conditions," which gave, under the Supreme Court decision, great powers to railroads in the matter of ignoring the long and short haul clause, has been eliminated. Provision was made—and very properly so, in my opinion—for the Interstate Commerce Commission, after investigation in special cases involving the adjustment of rates, to authorize a waiver of the long-and-short-haul clause.

That investigation required a hearing on the part of all parties in interest, and a suitable defense showing the necessity for making the rates by the raliroads.

In this same section there was a provision incorporated in protection of carriers engaged in transportation by water routes in competition with railroads. While carriers by railroad in competition with the water lines might be permitted to reduce their rates for the purpose of meeting water competition, and by which the public is benefited, theye were not permitted to increase their rates except for reasons other than the elimination of water competition. This has for its purpose the prevention of the establishment of unusually low and unremunerative rates by rail carriers for the purpose of eliminating water competition, and with its elimination to then restore the higher rates.

With the passage of the 1910 amendment the transcontinental lines, as well as the carriers in other sections of the country—but I will deal more particularly with transcontinental territory and intermountain territory, and the violation of the fourth section is more pronounced in that territory than in other territories by reason of the measure of the rates—applied to the commission for relief from the long-and-short-haul clause. The privilege of making lower rates to the Pacific coast cities than applied to intermediate point on account of water transportation.

The Interstate Commerce Commission conducted extensive hearings throughout the United States, and as a result of those hearings they prescribed the manner of relief which should be granted and the manner in which the relief should be applied. As I recall the application it embraced practically three schedules of rates. That

was prepared after extended hearings between railroads and shippers, and then there was a modified competition put in. What is known as Schedule A were the rates which the carriers desired to establish to the Pacific coast. As to those commodities there was not any showing of water competition as potential or controlling, and as to the articles embraced in Schedule A, the rates were made from Missouri River to the Pacific coast to be applied as a maximum to intermediate points; and the rates from points east of the Missouri River were made under a grouping or zone system, the Mississippi River taking certain differentials or arbitraries higher than the Missouri River; Chicago additional arbitraries; Detroit another zone; Pittsburgh and thence to New York and New England. Schedule B, list of articles embracing a great many commodities, embracing a list of articles upon which there was some potential actual water competition. And as to those commodities the rates to the Pacific coast were blanketed, or what they call the postage-stamp basis from Missouri and eastern points.

The commission prescribed that as to the intermediate points the rates from New York to Reno, Spokane, and Phoenix, Ariz., as representative of the intermountain territory.

Senator POINDEXTER. And Salt Lake City and Denver?

Mr. LINCOLN. They were not included in that decision. The rates to those intermediate points should not be greater than 25 per cent in excess of the New York to Pacific coast rates; that the rates, using Chicago and Pittsburgh, as I recall it, was 118 per cent; the Chicago zone was 107 per cent; Mississippi River zone was either 103 or 104, I do not recall now the exact percentage; the Missouri River is 100 per cent territory.

So the commission in its first decision rendered upon the application of the railroads, based upon the 1910 amended law, prescribed the commodities upon which no relief would be given and on which the long-and-short-haul clause would have to prevail. The list of commodities upon which relief would be given and the intermediate territories should be made certain percentages higher than the terminal rates. That decision of the commission was resisted. I believe the transcontinental lines claim the commission went beyond its powers in prescribing the zone system, and also in prescribing the rates which should be applied as a maximum at intermediate points, or the percentage basis; that what the commission had before it was the terminal rates, as to whether those carriers should be permitted to meet water competition, and having established the proof of that the Interstate Commerce Commission should have authorized it without involving intermediate territory.

The commission, however, took the position that under the act they had the right to consider the rates to the intermediate territory in connection with the terminal rates. The Supreme Court of the United States did not pass upon these appeals which were taken from their decision, and which contemplated the entire readjustment of that territory until 1914—I think the early part of 1914. The Supreme Court then sustained the commission in its orders. under which the Commission prescribed that these commodities upon which no relief should be given, the measure of the rates should be applied to and form intermediate points. The roads then proceeded to

readjust their tariffs based upon the decision of the Commission as confirmed by the United States Supreme Court.

Of course, with three or four years elapsing between the time that the commission had the rates under consideration and the decision of the Supreme Court, other conditions arose and some little delay was experienced in putting in the rates so as to line up under the decision of the commission to meet the new conditions that had arisen.

I think it was in the spring of 1914 that the Panama Canal was opened for transportation of property between Atlantic and Pacific seaboard territory. Very low rates resulted from the opening of the canal by the water lines. Much of the business that was moving all rail or water and rail to transcontinental points, Pacific coast terminals, was being diverted to the Panama lines—the all-water route—and with that competition the transcontinental lines then applied to the Interstate Commerce Commission for further relief from the provisions of the fourth section, so that they might participate in the traffic originating in eastern territory going to the Pacific coast ports and interior points.

Under that decision, again, the commission authorized reductions to the terminal points, confining in those instances, however, the reduction to the port cities that were actually reached by water, and then prescribed the measure of the rate that should be applied to intermediate points.

With our advent into the war, or prior thereto, in fact, but with the European war, the Panama Canal became a closed incident of transportation. All of the boats were withdrawn from that Atlantic seaboard-Pacific cost service, and were diverted to other service in in either South America or to the European ports. The reason advanced, before the advent of the United States in the war, was the ability of the ocean carriers to secure very much increased revenue in the diversion of their boats to the South American ports or to European countries.

I have in mind, for example, certain traffic moving at about nine or ten or twelve dollars a ton from New York to the Pacific coast; those boats were diverted and were getting $25 and $30 a ton for moving traffic from New York to South American ports, a distance practically no greater than to the Pacific coast, but their expenses were no greater; and later many vessels were diverted to the use of the United States Government and some were taken over and employed in connection with the war business.

So that, with the elimination of the water competition by the Panama Canal, the intermountain cities renewed their complaint before the Interstate Commerce Commission. But, as there was no water competition through the Panama Canal, there were no water rates compelling the adoption of the lower rate to the Pacific coast, that the discrimination created by this adjustment should be removed; there was now no justification for that discrimination, whether it was undue or due discrimination. The commission, after extended hearings—the eastern shippers felt that the waterway would be resumed and that the competition would be there again, and naturally asked that the rates be continued because there would be a resumption of water competition. The carriers engaged in transcontinental business were not desirous of increasing their rates, because they had reached a level which they felt was about related

with the level of water rates; but notwithstanding the desire of the eastern shippers and the transcontinental lines, the commission held that there was no longer justification for the lower rates from New York to the Pacific coast than to intermediate territory, and early in 1918 the commission, acting under the fourth section act as it reads to-day, said that the railroads did not justify the lower rates to the Pacific coast, could no longer justify them, and the fourth section of the act must be observed.

So that, with the existing law, the intermountain territory have accomplished what they seek to accomplish as an ironclad rule by the proposed amendment of the interstate commerce act. If there are no changes in conditions, they have all they ask for under the proposed amendment; that is, no violations of the fourth section from eastern territory to the Pacific coast.

Senator McLEAN. But the Interstate Commerce Commission gave them notice at the time of their decision if there were changes in conditions they would entertain applications for operation under the new situation.

Mr. LINCOLN. It was not necessary for them to give that notice, because, under the act to regulate commerce, they have the right to appeal to the commission when water competition is resumed.

Senator POMERENE. Has water competition been resumed to the same extent it was in 1914?

Mr. LINCOLN. There is practically none between New York and San Francisco; to-day no vessels are on and no lines operating.

The CHAIRMAN. It is now nearly 12 o'clock, and I would like to know the pleasure of the committee with regard to further hearings. Shall we attempt to proceed this afternoon or take a recess until to-morrow morning?

Senator KELLOGG. I move that we adjourn until to-morrow morning at 10 o'clock.

Senator POINDEXTER. Gov. Davis, of Idaho, is in the room, and he has to leave to-day, and I am informed he would simply like to appear before the committee and state that he has delegated ex-Gov. Gooding to represent him, and he does not want to take up any of the time of the committee.

The CHAIRMAN. We will be glad to hear from Gov. Davis.

STATEMENT OF GOV. D. W. DAVIS, OF IDAHO.

Gov. DAVIS. Mr. Chairman, I just desire to appear before the committee to state that I am leaving the city, and ex-Gov. Gooding, of our State, will wish to be heard before this committee, and Idaho feels that we are discriminated against in the matter of rates, and we would like to be heard on this question. I thank you.

(Thereupon, at 11.55 a. m., the committee adjourned until to-morrow, Wednesday, June 11, 1919, at 10 o'clock a. m.)

LONG AND SHORT HAUL BY COMMON CARRIERS.

WEDNESDAY, JUNE 11, 1919.

UNITED STATES SENATE,
COMMITTEE ON INTERSTATE COMMERCE,
Washington, D. C.

The committee met, pursuant to adjournment, at 10 o'clock a. m., Senator Albert B. Cummins (chairman) presiding.

The CHAIRMAN. The Chair desires to make a very brief statement. It is the hope of the committee that the statements made by the witnesses shall be compressed as much as possible, as all the members of the committee are very, very much occupied, and while we want to give a hearing that will develop all the information necessary to enable the committee to act, I hope that those who appear will bring their statements directly to the questions of fact, which affect their particular communities. Otherwise, we might have to close the hearings in such a way as to preclude information from those who are here.

Mr. Lincoln, you were on the stand yesterday when we adjourned, and you may now proceed.

STATEMENT OF MR. JAMES C. LINCOLN—Resumed.

Mr. LINCOLN. Under the present adjustment of rates dealing with the intermountain territory, where the departures from the fourth section of the law have probably been more pronounced than in other sections of the country, the westbound rates, with which I am very familiar, are in compliance with the long-and-short-haul clause, without departure, so far as relates to the general adjustment of rates. There are some departures from the fourth section even in the cross-continent rates, where a long line is serving the borders in reaching Pacific coast territory, as against the more direct lines. In view of the remarks of the chairman, I assume, therefore, there is no necessity of discussing the changes that took place since 1910, when the fourth section was enacted.

The CHAIRMAN. I think not.

Mr. LINCOLN. The history is very completely before the committee.

The CHAIRMAN. You will remember that the joint committee of the two Houses took a great deal of testimony on the long-and-short-haul clause. We held a session of the committee in San Francisco, and every man upon the coast in the intermountain country who desired to speak upon the subject was heard, and all that information is in the records of the committee, and I hope you will assume that we are fairly familiar with that phase of the matter.

Mr. LINCOLN. I would assume that, if that record is to be considered as part of these proceedings, because the historical feature is very completely covered, more so than it is possible to cover it at this time, by the testimony presented by Mr. Spence. That was a very complete historical record. So, what you wish to ascertain, I assume, is what would be the effect if the existing law were modified so as to make an absolute provision for the rates for the shorter haul, which will not be greater than the longer haul.

The CHAIRMAN. How it will affect a particular community, or the railroads in those communities?

Mr. LINCOLN. There are three or four phases of the effect which I wish to speak to. One is the question of the rail lines meeting the water-line competition.

Senator POINDEXTER. Now, are you speaking of the effect on the railroads or the communities?

Mr. LINCOLN. On the railroads and on commerce. I am speaking of both.

Senator POINDEXTER. Of course what affects the railroad affects commerce, but my question related rather to the effect upon the communities.

Mr. LINCOLN. As to the effect upon communities, I will deal with that; yes, sir.

The possibilities, owing to there being all-water service from New York and the Atlantic seaboard to San Francisco and the Pacific coast, for low rates, are open and have been availed of in the past. That established the water lines. The rates they apply establish keen competition, which the railroads would have to meet if they wished to participate in the traffic. Now, whether the railroads should be permitted to participate in that traffic is one question, of course, that will have to be considered.

Fundamentally, the rates across the continent should be fair and reasonable rates, and the fundamental rates are so graded. That is, those rates could be established without any departures from the fourth section. We believe that if the rigid fourth section were to prevail as applied in making rates from the eastern territory, that it would have the effect of confining the movement of business to the Pacific coast very largely to the water lines; that the railroads could not meet the very low rates that have been in the past established to the terminal points without very materially affecting their revenues, if those rates were applied as a maximum to the intermediate points. We believe that in view of the volume of the business it would be, as to the carriers, a serious loss, and would impair that property as a public utility for the transportation of business generally. We also feel that we must have the additional facilities that are afforded by the rail carriers in meeting and shipping as against the water carriers, and that that facility should be encouraged as much as possible so long as injury is not caused to any other community.

In my judgment, in the establishing of lower terminal rates as compared with the intermediate territory, it is a benefit to the intermediate communities, so long as the terminal business or the competitive business is handled with some profit, that any profits over and above the cost of service, go toward making for the efficiency of the entire property and giving the revenue to the entire property, which

in turn permits the railroads to carry lower rates as a general proposition on its entire system.

Senator McLEAN. Can you give us any specific illustration demonstrating that? You say you believe it. Have you any illustration in mind which will present that situation to the committee?

Mr. LINCOLN. I have an illustration which possibly may answer your question, and it covers shipments from the Atlantic seaboard territory—from the eastern territory to the Pacific coast. Just before the water lines retired from the handling of business through the Panama Canal, certain shippers located in the eastern teritory and not located at New York, were desirous of placing a commodity on the Pacific coast by all-rail movement, the all-rail movement being a little preferred to the transferring to New York by rail and thence by water to San Francisco.

Senator POINDEXTER. What was the commodity?

Mr. LINCOLN. Drugs and chemicals. The rate in effect at that time on drugs and chemicals, New York to the Pacific coast, all rail, was the first-class rate which, I recall, was $3.60 from New York, $3.40 from Detroit, and $3.10 from St. Louis. These are the three important drug points; Philadelphia also is important, and also New York. The New York shippers were practically monopolizing that market—those located in Brooklyn and New York City and in New York Harbor—because they were securing a rate ranging from $1.25 per 100 pounds to about $1.65 per 100 pounds for the movement of these drugs and chemicals and oils—what they call drugs—to the Pacific coast. Philadelphia, Detroit, and St. Louis were dependent upon all-rail transportation. Philadelphia, of course, was very near to New York and had a very short rail transportation to the port of New York in order to secure the benefit of the water rate. The service which would have to be rendered from Detroit was greater, and from St. Louis still greater, than from Philadelphia, whereas New York had all-water service. It was felt that a rate of $2 per hundred pounds would fairly meet the competition of the water lines on the part of those located at the interior points, or away from the port of New York. That rate was established, and it had the effect of diverting a certain amount of business to the all-rail lines, whereas, of course, the New York shippers could still avail themselves, and did avail themselves, of the lower rate on the bulk of their business, but on the quicker shipments, where they desired to make quick deliveries to the Pacific coast they forwarded by all rail.

Now, the result of that action in establishing the $2 rate from New York, which was a paper rate, of $3.60, because it was not used, and the $3.10 from St. Louis, which those people were not using to any extent because they could not meet the competition, the $2 rate when established then became the measure of the rate from all these territories. In other words, the rate from New York, Detroit, and St. Louis to San Francisco became the same—$2 per hundred pounds. That then gave tonnage to the carriers and enabled the eastern people to compete with New York, located at the port, and San Francisco at the other end of the port, in reaching that port.

The CHAIRMAN. Just stop a moment there to see if I understand you. I can well understand why the railroads want to participate in that business, but can you point out to the committee why, if

Detroit has a rate of $2 per hundred pounds upon any particular commodity to Seattle, why Spokane should not have the same rate? That is the real question. Why should they not ship to Spokane at the same rate, at least, that they ship to Seattle?

Mr. LINCOLN. Well, is Spokane injured by the railroad meeting these rates to the Pacific coast, in participating in the traffic?

The CHAIRMAN. No; I do not speak of an injury. I speak now upon the propriety of charging more to Spokane than is charged to Seattle. Why should the railroads be permitted to do that? They will carry the business just the same; they will participate in it just the same.

Mr. LINCOLN. They would not, in my judgment.

The CHAIRMAN. Why not?

Mr. LINCOLN. In other words, if the $2 rate were to be applied as a maximum or the water-compelled rates were applied as a maximum to all intermediate points, so that the very large volume of traffic would have to be handled upon less than normal rates, it would so affect their revenues that they could not operate and afford to participate in the traffic.

The CHAIRMAN. You are speaking for the railroads. That is the effect upon the railroads. I am speaking about the effect upon the community. Why should, in that case which you mention, Detroit have a better rate to Seattle than to Spokane? You say it is because if you were to attach a higher rate it would seriously affect the revenue of the railroads, but it would be just and fair, so far as the communities are concerned, would it not?

Mr. LINCOLN. In looking at it one way, yes; in looking at it the other way, as to the continuing of the facilities of the carriers, enabling them to derive revenue so they can keep up their improvements and have some returns——

Senator POINDEXTER. Suppose the Government makes rates or allows rates that are sufficient to keep up equipment and allow a return, what objection have you to having these rates adjusted under the fourth section? Your concern seems to be for the railroads. We propose, if we can, to take care of the railroads.

Mr. LINCOLN. It concerns the merchant in placing his product on the coast. I might say that so far as New York goes, I refer to all New York—I am not representing only New York, and in representing the Merchants' Association of New York I am not representing merely business which is done at New York and from New York, but which is done in the metropolitan district and throughout the eastern territory.

Senator POINDEXTER. That district, generally, as you say, has water competition?

Mr. LINCOLN. From New York; yes, sir.

Senator POINDEXTER. That is what you are basing your claim for discriminatory rates in your favor upon? That water competition exists by reason of the Atlantic Ocean. Nobody is going to take the Atlantic Ocean away from you.

Mr. LINCOLN. Nobody could take it away from New York; no.

Senator POINDEXTER. You say you are going to be hurt. How are you going to be hurt?

Mr. LINCOLN. As to the commodities we produce it New York, as a New York man, we probably would not be injured.

Senator POINDEXTER. Who would be injured. That is what we are trying to find out.

Mr. LINCOLN. The man located at Detroit would be injured; the man located at Rochester, N. Y., would be injured; the man located at Troy would be injured, because he would have the additional charges to pay to the port as against the man located at New York, in placing his goods in competition with New York and in competition with the water transportation on the Pacific coast. Now, under the provisions of permitting these rates to be made to the Pacific coast, the carriers to participate in a certain amount of business are thereby enabled to derive revenues for the transportation; that helps keep up the property.

Senator POINDEXTER. You are speaking for Detroit?

Mr. LINCOLN. I am speaking for Syracuse, Troy, and the eastern territories. The factories are not all located on Manhattan Island or in Brooklyn. We have our factories located at various interior points in New England, Pennsylvania, and New York State; the officers are in New York.

Senator POINDEXTER. You say that the railroads would lose this traffic. I just have a memorandum here which I want to ask you about. Prior to March 15, 1918, the rate on canned salmon from the Pacific coast to the Atlantic coast was 62½ cents a hundred pounds; that was one of the lowest rates ever made, and that there was no violation of the fourth section in that rate. I have canned salmon——

Mr. LINCOLN. I did not make that statement.

Senator POINDEXTER. I am making the statement.

Mr. LINCOLN. Oh, you are making it. All right, sir.

Senator POINDEXTER. Canned salmon is one of the commodities that is specially adaptable to transportation by water. If the boat lines will take away the traffic from the railroads, under the fourth section, if it is applied, how is it that they are able to carry canned salmon, which is easily adapted to transportation by water, without a violation of the fourth section?

Mr. LINCOLN. Well, they can not, if they apply the 62½-cent rate from Portland to New York in competition with water lines.

Senator POINDEXTER. They did do it.

Mr. LINCOLN. And that applied to intermediate points. They are making a departure from the fourth section.

Senator POINDEXTER. No; they are not. There is no discrimination against intermediate points. There is no violation of the fourth section in that rate.

Mr. LINCOLN. I am not conversant with that rate. I am more conversant with western rates; we are interested in westbound rates, rather than eastbound, and I am not familiar with that adjustment or why it was made.

Senator POINDEXTER. Another question. I mention canned salmon because it is stated to me that is a commodity that can be transported by water. Some commodities are injured by sea transportation, but canned salmon is not. If there is anything that can be carried by water, that can be carried by water with no violation of the fourth section; the market is in the East and the railroad carries the goods. If they can do it, they can do it in other things.

Furthermore, the same question applies to all commodities and all freights from the Pacific coast to the East; the fourth section has been enforced on eastbound traffic, why can not it be enforced on westbound traffic?

Mr. LINCOLN. Well, I do not understand as to eastbound traffic in the past; prior to 1910 it has been enforced. I do know that on the grounds of market competition in the products of the Pacific coast they have undertaken to place them in competition with other territories. I believe that should be done. In other words, to place the producer in the interior of California in a position to put his goods in competition with the producer that may be on the Pacific coast. That is market competition, and it should be developed as far as possible in reaching the consumer.

When we come to the westbound situation I say if all the rates of the transcontinental lines were brought down to the level of water compelled rates, which we find necessary to establish at the Pacific coast, it would impair these properties in such a way that their revenues would be so reduced they could not meet their expenses and give the service to which the public is entitled. Now, under a rigid fourth section enforcement, the only course left to the railroads would then be to establish rates to the Pacific coast which are high enough in themselves so as not to impair their revenues by pulling down all of their intermediate territory to a normal basis.

Take in the case of the drugs to which I was referring, the interior territory was benefited by the reductions to the coast. Their rates at the same time were reduced from St. Louis so that they were 104 per cent of the St. Louis-San Francisco rates; and from seaboard territory the intermediate rate was made 105 per cent, which was a material reduction from the rates they previously enjoyed. The commission has, acting under the existing law, held that when the railroads establish these terminal rates, they can not add the local back, but the rate to the intermediate territory must be reasonable with relation to that rate, and the conditions surrounding the making of that rate. That is what I want to see continued.

Senator POINDEXTER. I am much interested in following your illustration in the case of drugs and chemicals. What was the result? As I understood you, you were describing an actual occurrence.

Mr. LINCOLN. Yes, sir.

Senator POINDEXTER. What was the result of it?

Mr. LINCOLN. The result of the change of it from $3.60 all rail, which I say was a paper rate—from New York the rate became $2.

Senator POINDEXTER. You say that benefited the interior points?

Mr. LINCOLN. It did benefit the interior points.

Senator POINDEXTER. Who did it injure?

Mr. LINCOLN. Who did it injure?

Senator POINDEXTER. Yes.

Mr. LINCOLN. It did not injure anybody.

Senator POINDEXTER. What objection have you to it, then?

Mr. LINCOLN. Well, where they claim the injury was, was in establishing a higher rate to intermediate points.

Senator MCLEAN. Where were the rates higher?

Mr. LINCOLN. To the intermountain territory; it is claimed they were injured by this rate put in to the Pacific Coast.

Senator MCLEAN. What was their rate?

Mr. LINCOLN. $3.40 from Toledo and $3.10, I think, from St. Louis; less than New York, which was a paper rate. They were benefited, and they were permitted, these manufacturers at those points were then able to get into the Pacific Coast in competition with New York, which they could not do before.

Senator POINDEXTER. That was not a violation of the fourth section.

Mr. LINCOLN. It was a violation of the fourth section as to Reno, because the rate to Reno was higher than to San Francisco, and to Spokane it was higher than to Seattle.

Senator POINDEXTER. Not as between New York and Detroit. Detroit had the same rate as New York.

Mr. LINCOLN. The same rate as New York to Spokane and the same rate as New York to Seattle, but the rate to Spokane was reduced on account of the reduction made to Seattle. Now, nobody was injured.

Senator POINDEXTER. Detroit was not injured.

Mr. LINCOLN. No; but it was benefited by that arrangement.

Senator POINDEXTER. And New York was not injured?

Mr. LINCOLN. New York was injured, you might say, to the extent that business was diverted to these other people and they were given the opportunity to compete as to that particular commodity on the Pacific Coast. They were injured to that extent, because Detroit was paying all rail if it went into San Francisco, $3.40, but it had to pay the rail rate from Detroit to New York, and the ocean rate, and they would be at a disadvantage in the rail charge from Detroit to New York in competing with New York.

Senator POINDEXTER. The sum and substance is you, representing New York, want to continue to have a better rate in hauling goods to the Pacific Coast than Detroit has for hauling it a shorter distance.

Mr. LINCOLN. We did not ask for it in that case. We believe in enabling the various manufacturing communities to compete in a common market on as equal terms as possible.

Senator POINDEXTER. That is exactly what we are contending for in this bill.

Mr. LINCOLN. The competition was at San Francisco as between the Detroit man and the New York man. At Seattle this competition was between the Detroit man and the New York man. They ought to reach Seattle on a fair basis.

Senator POINDEXTER. Let me get it clear again. Before this change you speak of was made on drugs, Detroit to Pacific coast, for the short haul, paid a higher rate, and New York to the Pacific coast, for a longer haul, paid a lower rate?

Mr. LINCOLN. We paid a lower rate all water, not all rail.

Senator POINDEXTER. Of course that was manifestly advantageous, so far as railroad transportation is concerned, to New York, but a change was made, and in so far as the relative rates between New York and Detroit were concerned the fourth section was enforced, no higher rate was charged for the short haul than for the long haul.

Mr. LINCOLN. From Detroit to San Francisco.

Senator POINDEXTER. The consequence was to give Detroit an opportunity to ship drugs, and you say it was not an injury to anybody?

Mr. LINCOLN. I do not see that it injured anybody at intermediate points.

Senator POINDEXTER. It carried out this policy which you have just mentioned of allowing the entire country to develop along natural lines and in accordance with its environment and circumstances.

Mr. LINCOLN. Well, the entire country must be treated with fair and reasonable rates.

Senator MCLEAN. You assume they made some money out of the business—the through business—on the $2 rate. The railroads must have made some money.

Mr. LINCOLN. They had to show that.

Senator MCLEAN. If they had not had that business it would, of course, have reduced the net income, and that would have been reflected on the rate to intermediate points?

Mr. LINCOLN. Absolutely.

Senator MCLEAN. Provided the railroads were permitted to charge a compensatory rate.

Mr. LINCOLN. That is absolutely true; there is no doubt about that.

The CHAIRMAN. I do not quite understand that as between New York and Detroit, shipping the same commodity, chemicals, of which you have spoken, this adjustment meant, then, that Detroit could ship 700 miles to New York and then by water to San Francisco or Seattle and compete with New York or that vicinity in reaching these western markets?

Mr. LINCOLN. In reaching San Francisco.

The CHAIRMAN. What difference is there in enabling Detroit to ship goods to New York, a distance, we will say, of 700 miles, or nearly that, and then taking it by water to San Francisco at the same rate that the New York manufacturer could ship from his port to San Francisco?

Mr. LINCOLN. You could not do that.

The CHAIRMAN. Then, the Detroit manufacturer could not compete with the New York manufacturer.

Mr. LINCOLN. Only by absorbing the rail charge into New York. He was at that disadvantage, unless his cost of production was less.

The CHAIRMAN. And that system of rates enabled the manufacturer in Detroit to ship 700 miles east in order to take water transportation?

Senator MCLEAN. Oh, no.

Senator POINDEXTER. They are shipping the other way.

The CHAIRMAN. I am speaking now, assuming the rates had not been readjusted toward the west, and reaching San Francisco more cheaply than he could ship 1,500 miles directly on the line west to Spokane.

Mr. LINCOLN. By all rail; yes, sir. He could ship cheaper by way of New York and then by water to San Francisco or Spokane—he could ship it cheaper than by moving all rail from Detroit to San Francisco.

Senator MCLEAN. He could not compete with the New York producer.

Mr. LINCOLN. He would have to absorb the rate to New York, which, at that time, was about 55 or 60 cents.

Senator POINDEXTER. If he kept on absorbing——

Senator MCLEAN. Is it true or not a large percentage—30 or 50 per cent—of the westbound cars are empties?

Mr. LINCOLN. I could not answer that now, as to the condition in the last few years. I do not know. At one time there was quite a number.

Senator MCLEAN. Do you know whether the percentage of western empty cars is much greater than the percentage of empty cars going east?

Mr. LINCOLN. I do not know.

Senator STANLEY. In this particular commodity, the producers of drugs in Detroit, do they have any advantages in cost of production over those in New York?

Mr. LINCOLN. That I could not say as to whether they have an advantage in cost of production or not.

Senator STANLEY. If they did not have some advantage the rate would be prohibitive, so far as the San Francisco market is concerned, to the Detroit manufacturer, would it not?

Mr. LINCOLN. They could not compete if their costs were the same, with the man at New York having the advantage. They could not compete, and under this proposition, meeting the measure of water competition would apply those rates for market purposes from eastern territory and enable the people located in the eastern territory to go into the San Francisco markets on the same rate—all rail. That, to my mind, has not injured any interior point. because the business could move there and was moving there, only being supplied more largely from one market by water. Practically all the business out of New York did move all water.

Senator STANLEY. In that event that diversion of traffic from Detroit east to New York, on account of this differential of rates, was a waste of energy, was it not?

Mr. LINCOLN. Well, I would not say that; no.

Senator STANLEY. It was an unnecessary cost of transportation?

Mr. LINCOLN. I would not want to say that. I do not think you want to confine your market to one point. The buyers do not want to be compelled to go to one point for their goods.

Senator STANLEY. But for this higher rate, the natural course of the traffic would have been from Detroit directly west, would it not?

Mr. LINCOLN. It would.

Senator STANLEY. If it was diverted in order to get the advantage of the rate, there was a waste of energy, was there not, on the part of the carriers?

Mr. LINCOLN. When they equalized the rate it did cut out the back haul.

Senator FERNALD. Direct from Detroit to San Francisco?

Mr. LINCOLN. Yes, sir; direct from Detroit to San Francisco; it simply participated in the business of that market. Now, nobody was injured by the railroad being permitted to participate in that traffic. If it makes any money out of it, it goes toward the upkeep of the property.

Senator MCLEAN. That would result in a saving of energy.

Mr. LINCOLN. I think it would.

Senator McLEAN. If it went direct from Detroit to San Francisco under the low rate instead of being compelled to go to New York and around it would be a direct saving?

Senator POINDEXTER. How about, to illustrate that particular point, the saving of energy in shipping direct from Detroit to Salt Lake or Denver, instead of shipping from Detroit to San Francisco or Portland or Seattle and then shipping back again across the Cascade Mountains to Denver and Salt Lake? How about that, as a waste of energy?

Mr. LINCOLN. That would be a waste of energy if employed to any extent.

Senator POINDEXTER. That is the theory upon which these rates are based?

Mr. LINCOLN. No; they are not made that way.

Senator POINDEXTER. I beg your pardon. The theory upon which the discrimination against the interior points was based was the rate to the terminal and local rate back again.

Mr. LINCOLN. That has been corrected.

Senator POINDEXTER. It has been corrected to some extent, but the entire structure was based upon that proposition.

Mr. LINCOLN. The original structure was based upon rates to intermountain territory.

Senator POINDEXTER. In other words, it was based upon a system by which they got the longest possible haul instead of the shortest?

Mr. LINCOLN. The original rate construction, of course, was based upon water competition to the Pacific coast and added local back to points intermediate with the coast. That has been corrected by the order of the Interstate Commerce Commission under the amended act.

Senator POINDEXTER. They have only been temporarily corrected, because of the blocking of the Panama Canal.

Mr. LINCOLN. It was prevented by the zone system.

Senator POINDEXTER. It was not corrected, but it was modified.

Mr. LINCOLN. It was modified; it was not corrected as to absolute service. It was very materially modified as to the construction of rates.

Senator STANLEY. I would like to ask Senator Poindexter a question at this point. Has the failure to enforce this long-and-short-haul clause had any material effect upon the congestion of freight in this country? Is that your contention?

Senator POINDEXTER. I think it was one of the principal factors in causing the blockade of freight during the emergency of the war, by congesting terminal facilities with traffic at ports, instead of having them distributed at convenient points along the line.

The CHAIRMAN. You may proceed, Mr. Lincoln.

Mr. LINCOLN. One of the further reasons which have been covered somewhat in the answers I have made to the cross-questioning is, we object and do not think there should be any change made in the existing law, and that some recognition should be given to the interests located in the interior to the effect of water competition, from the fact that large industries located back in the eastern territory, at points in New England, at points in New York State, at points in Pennsylvania, and at points in New Jersey, who have to compete

with these industries which are more favorably located at a port whch can avail themselves of direct shipment by the water facilities. We believe that those communities located in the interior, like Syracuse, Troy, and down at Trenton, N. J., at Rochester, N. Y., and Buffalo, N. Y., should be permitted, under reasonable rates, to enter into the Pacific coast territory and market their goods in competition, they moving by all rail in competition with the rates made from the seaboard cities by all water. Under the authority conferred in amended section 4 of the interstate-commerce act, that privilege is granted if there is a reasonable margin of profit in handling the business to the Pacific coast, so that the rail line may participate in the traffic. They are now permitted to do so, and in that adjustment of rates no discrimination is existing as between different manufacturing points and jobbing points.

We feel that no injury can result to intermediate territory in permitting these various industries to go into the common market on equal terms. That is the situation which prevails to-day. We do not feel that in doing that because the railroads in meeting water competition have to accept something less than the normal rates that they should be required to bring all of their rate structure down below a normal rate, because the income then would be insufficient to take care of the upkeep of the property and meet fixed charges and give the service to the public which is required. The intermediate territory is not discriminated against or injured so far as the rates to the intermediate territory are reasonable and in some measure related to the terminal rates.

The CHAIRMAN. That is the very point that has always bothered me in regard to this subject, and you have referred to it several times, and I confess I can not see the justice of that statement.

Take Spokane; now, if Spokane had a lesser rate than Seattle, Spokane as a distributing point could reach out farther west in her distribution than she now does, as against the competition of Seattle, and so long as this discriminating rate retards the growth and development of the intermountain country I am unable to see the soundness or reasonableness of the statement that you do not injure this intermountain country, because, after all, everything is competitive; everything is relative. Now, suppose the population of the intermountain country were four times that of the Pacific coast, and it had grown up under rates which gave her a better opportunity to distribute than the Pacific coast; you take away these rates and you instantly stop the growth and development of the intermountain country.

Mr. LINCOLN. I would say that the railroad that initiated a practice of that kind would be wrong. Let us see if we can not follow this a little bit. In the first place, the basic rates from New York and from intermediate points to Seattle and Spokane must be reasonable rates.

The CHAIRMAN. That is a mere abstraction, if I may say so. A reasonable rate is one which will enable the company which imposes it to pay the cost of maintenance and operation and return a reasonable dividend or compensation upon the capital. Now, the company itself is only interested in the aggregate.

Mr. LINCOLN. Yes, sir; that is right.

The CHAIRMAN. But every community is deeply interested in the distribution of these rates; and the whole doctrine of discrimination rests upon the idea that each part of this country shall have an opportunity to grow and develop along with every other part. Now, if you make a higher rate to Chicago from the eastern seaboard than you make to points on the Mississippi River, to Minneapolis, and St. Paul, instantly Chicago would quit growing and these other countries would grow and become the distributing centers for the territory both east and west of it. I do not think there is anything really helpful in the suggestion that these communities that are discriminated against have reasonable rates, because that is all relative.

Mr. LINCOLN. Well, the rates, as I say, reasonable and relative rates, they are fundamentally established that way. Now, then, the factor comes in there as to the rates by another agency of transportation over which the railroads and, so far as the Government is concerned, the Government itself, have no control. It established the water-line rates from New York, we will say, to Seattle; that they consider as compensatory for the water rates—that is, materially lower rates than the usual reasonable rates for the all-rail service. Naturally, the much lower rate prevailing by water to the port city will take the traffic away from the all-rail carrier.

Senator STANLEY. At that point let me ask this: Is there a great difference in time between the water and the all-rail transportation?

Mr. LINCOLN. There is a difference in time. I would say when the Panama Canal was opened the difference in time was not material. They were making very good time, as compared with the all-rail movement, New York to the Pacific coast. Now, then, the business is moving all water. It will continue to move by water when this new agency or water agency is established, and the rail carriers, then, under conditions of that kind, with this new adjustment of rates that are normal and reasonable rates as applied to the entire system, can not do any business. They are deprived of earnings upon that traffic because it is moving by water. The railroad has its fixed charges to meet, its obligations to meet, and the public to serve; and if you deprive it of that revenue, then in order to meet those charges, assuming it would be deprived of it entirely, then it would have to derive its income from the more limited traffic which moves to the intermediate territory, and that as a fair return it should have some compensation for that, something over and above a fair return on the investment.

Senator STANLEY. I want to interrupt you there. Is this a hypothesis or a fact?

Mr. LINCOLN. It is more or less a fact; it is a fact. You have got to go back some distance to get the origin of this. It is not moving by water now. There is no water movement. Now, the railroad comes along and says, "Here is a large volume of business which I can move. I can add tonnage to my line; my trains have got to run; my investment is there and my roadbed is there. Now, will you permit me, the Interstate Commerce Commission or will the Government permit me, to enjoy a portion or that traffic? We feel that we can handle a portion of that in competition with the water lines at a certain rate." That is easy of determination, because the water lines, we know what their rate is. Now, how much more can you pay

for movement by rail? Now, we can get some additional tonnage on our railroad; we can participate in this Seattle traffic and we can make some money by doing it, something over and above the cost of transportation, and we can have some money coming in to contribute toward the general upkeep of the property, and a return upon the property.

I say, the railroads should be permitted to do it. If it is not permitted to do it, except by the sacrifice of the revenue at the intermediate points, they will refrain from participating in the traffic. The territory which is intermediate—and I have been using the Pacific coast as fairly illustrative of the situation because the departure is larger there than in other sections of the country. The intermediate points adversely affected are not discriminated against by that adjustment. If the railroad did not meet it the business would move just the same by water. The competition will be just the same. Now, if we operate under these conditions and the revenue of the railroads proves to be excessive, then the intermediate rates, all the rates, will naturally come to a lower level when the general return is excessive; but until that time, every pound of business you can put upon a railroad to help it toward making up a deficiency, or toward helping operate the railroad should be permitted under reasonable circumstances and conditions. Now, if the intermediate points were discriminated against and the only discrimination, you might say, that existed there, was merely the measure of the distance hauled, but actually discriminated against in the ability to do business, by the act of the carrier, not by the water line, it should be corrected, and it will be corrected, as it has been corrected in the past.

I feel, along the line suggested, there is no one more jealous of its local situation than New York is of New York Harbor. I feel under the policy that has been followed in the recent constructions of the rates between the two coasts of this country, it is the one thing that does avoid the congestion, instead of adding to the congestion. It avoids forcing this business at each end into the port and allows it to be distributed over the railroads. But, at the same time, it performs a great commercial public service, because it puts the various manufacturers upon an equality in competing in a common market. That is being done to-day. Now, that same rate construction has had the effect of also making more common the markets of the intermediate territory than prevailed under former adjustments of rates. It is like taking on the additional passenger, on a coach or on a street car. It is the additional business, and the volume of business that goes to help toward making up the upkeep of the entire property.

Senator POINDEXTER. Your argument, I understand, is if the fourth section is enforced the traffic will move by water. That is what your argument is.

Mr. LINCOLN. I am satisfied a very large volume of traffic would move exclusively by water, because the railroads could not afford to meet the water competition. That is my view. I will give you an illustration of that if you will permit me for a moment.

Senator POINDEXTER. Yes; I will in a minute. Your view is if the fourth section is enforced a large additional amount of traffic will move by water, and of course that will require ships?

Mr. LINCOLN. Yes, sir.

Senator POINDEXTER. And shipment between ports on the Pacific and ports on the Atlantic.

Mr. LINCOLN. Yes, sir.

Senator POINDEXTER. You claim that that would increase the congestion on the railroads, do you?

Mr. LINCOLN. It increases congestion at the port by forcing the ships to go to certain ports, which they would do.

Senator POINDEXTER. That would increase the congestion on the railroads?

Mr. LINCOLN. At the port; yes, sir; just as we have it to-day.

Senator POINDEXTER. I do not agree with you that relieving the railroads of a large part of their traffic will increase the congestion, but let me ask you another question. Would the establishment of these ship lines to these ports be an injury to the ports?

Mr. LINCOLN. No, sir; it would not.

Senator POINDEXTER. Would it be a benefit?

Mr. LINCOLN. Yes, sir; it would be a benefit.

Senator POINDEXTER. And you are fighting against it?

Mr. LINCOLN. No, sir; I am not—reasonable competition between them. We would want to develop and do everything we can to develop water transportation of the country. But we can not depend upon it entirely, and we ought to have an adjustment of rates that will not force that. We do not want to depend entirely upon water transportation in New York, because there are conditions under which it is not desirable or beneficial.

Senator POINDEXTER. You think ship lines and ships are good things, but you want to be careful not to get too many of them?

Mr. LINCOLN. No; we want all we can get, and the more the merrier.

Senator STANLEY. At the present time are the railroads in a position to take care of the amount of tonnage that is tendered and available by the shippers?

Mr. LINCOLN. The railroads are just at the present time, because there is not very great activity in the commercial world. But just as soon as our new grain crops get to moving or the wheat crop, and the commercial activities get under way, I am afraid we are going to have another congestion.

Now, we were speaking about the observance of the fourth section; that is, I was speaking about it; the railroads might not find it to their interest to meet the all-water rate; they do not find it to their interest to meet the all-water rates to-day; there is no attempt whatever made on the part of the rail lines to meet the rates from New York to Galveston, the water-line rates; no attempt is made, because they can not afford to do it. If the intermediate territory were involved or even if the intermediate rates were higher and reasonable as compared with the terminal rate, if that rule were to be observed it would tear down their structure. They can not afford to do it and do not do it to-day. The fact of the matter is the eastern people have to depend very largely in getting into the Southwest, to Houston and Galveston, on rail to Atlantic seaboard, and by water to Gulf ports.

Senator POINDEXTER. If this sysem you speak of, for giving equal rates to the interior points in the East, around New York, such as Syracuse and Detroit, does not take the traffic away from the rail-

roads, how do you argue that the same system applied, to the West, would take it away from them?

Mr. LINCOLN. I said that the present adjustment of rates under that theory of putting the rate from port to port, if the railroads did not meet it, it would take the business away from the railroads; it would take the business from interior points, because they would have the rail haul to the seaboard as the difference which they would have to absorb in order to meet competition in the seaboard cities.

Senator POINDEXTER. But you have given Syracuse, Rochester, Buffalo, New York, and Detroit the same rates as New York to the West.

Mr. LINCOLN. We have now.

Senator POINDEXTER. And the rate from New York was based on the water rate?

Mr. LINCOLN. It is based with relation to the water rate; yes, sir.

Senator POINDEXTER. And yet the railroads carry the business?

Mr. LINCOLN. They are not carrying all of it now.

Senator POINDEXTER. They are carrying about all of this that they can carry.

Mr. LINCOLN. They do not carry all of it.

Senator POINDEXTER. If they do that, it knocks out completely your theory that water rates will take all the business away from the railroads, does it not?

Mr. LINCOLN. I say it will take all the business of the railroads from port to port; that is, from one eastern terminal to the port on the Pacific coast, if the railroads did not meet the water competition, it would then nencessarily be diverted to the waterways.

Senator STANLEY. Would not the difference in time compensate for the difference in the cost in a great many cases?

Mr. LINCOLN. There is an allowance for difference in time. The railroads have never undertaken to make the same rates as are made by water. They have added something due to quicker service; something due to avoiding of transfers; and they do secure a higher rate than the all-water rate. The shipper is willing to pay that, and does.

Senator STANLEY. Do you know from experience to what extent the shipper will bear the increased cost in order to make the saving of time by way of all-rail route between the ports?

Mr. LINCOLN. No; I do not. Some goods that are wanted at once, for early delivery, will pay a much higher price than they will for the other. Just as it is to-day, there are times when shippers will send freight by express rather than by freight, because they want quick delivery, and store-door delivery, you might say. At other times, you take for illustration, I have known of some goods that will move from New York to Chicago by express because immediate delivery is required. At other times this same class of goods will move by all rail. If it is large stocks of goods to go to the jobbers for storage, or for market purposes, they will usually look for the lowest rate. I have known the same identical goods moving by canal and lake where it took from 30 to 40 days to make delivery. They did not need the goods, they wanted to get them in and distribute them out in the fall.

Senator POINDEXTER. How do you explain the fact—Senator Stanley asked you a minute ago if what you were stating was a fact or just an abstraction or theory—that the giving of the intermediate

points the water rate, or enforcing the fourth section, would take the business away from the railroads and give it to the water at the terminals. In view of the fact that has not occurred, that the fourth section has not been enforced absolutely between the two coasts, that this bill is for the purpose of enforcing it; that up until the obstruction of the Panama Canal and the cutting off of traffic by the war, since which time there has been no water traffic, as you have testified, practically speaking; how can you tell him it is a fact instead of a theory?

Mr. LINCOLN. I tell him it is a fact that business does move all-water.

Senator POINDEXTER. Yes.

Mr. LINCOLN. Only by past experience.

Senator POINDEXTER. By past experience the railroads have been carrying the business. Let me ask you one more question before you proceed. One fact is on the eastbound traffic there is no discrimination against intermediate points. Take lumber, for instance, one of the great bulky commodities of transportation. Lumber from the Pacific coast, which is a great lumber-producing section, has the same rate to intermediate points that it has to the Atlantic seaboard, and that has not taken it away from the railroads. The fact is, it seems to me, just contrary to what you state.

Mr. LINCOLN. As to eastbound lumber, I believe that is one of the Pacific coast products. I think they try to put the product on an equal basis in getting to the common markets in the East, just as they, in going westbound, try to put manufacturing points on an equal basis in getting to the markets in the West.

Senator POINDEXTER. Yes; the railroads have carried it.

Mr. LINCOLN. The details of the eastbound situation I am not familiar with at this time.

The CHAIRMAN. I have neither the power nor the desire to shorten unduly this hearing, but all the members of the committee know what our engagements are. This witness has been on the stand for two hours, practically, and we will never get through if we proceed in the way we are proceeding, and so far as it is possible, I suggest that we allow the witnesses to go and state their cases and get through and argue this out among the members of the committee. I do not mean that to be in any way arbitrary, but I do want to get through with this hearing.

Senator POINDEXTER. I think that is a good idea. Mr. Lincoln, you may proceed.

Mr. LINCOLN. There is one situation I want to refer to and then I will close, because the questions that have been asked have covered a great deal more than I would have covered otherwise.

Reference was made to the situation in central territory—Ohio and Indiana, and that territory—yesterday. I believe Mr. Pomerene asked some questions along that line. In the territory known as official classification territory—that is, the territory east of the Mississippi River and the territory north of the Ohio and Potomac Rivers—that has reference to the departures from the fourth section. There is no water competition involved, but a question of rail competition; one line is competing with the other. Under the general construction of rates in that territory there, from east to west or from west to east, by the main trunk lines on business moving di-

rectly over those trunk lines, to the best of my knowledge and belief, in so testifying, there is no violation or no departure from the fourth section. The New York Central Railroad in handling shipments from New York to Chicago applies the Chicago rate, which would be the maximum at intermediate points. The rates by the B. & O. from New York, Philadelphia, or Baltimore to Chicago or to St. Louis. Now, the short-line distance from New York to Chicago is 908 miles; the longest line—I do not recall the figures, but the average mileage of the seven lines that participate in the traffic between New York and Chicago is 960 miles, 52 miles greater than the shortest; that is, the main lines that participate in the traffic.

Now, the rate from New York to Chicago—of course, Chicago is called the 100 per cent point; that is, there are various points in that district which are grouped with Chicago. Now, there are departures from the long-and-short-haul provision in the handling of business on an originating line, we will say, like the New York Central Railroad, that is in the New York zone, when it comes out and moves over the Central of New Jersey or some other line into a point that is in the 100 per cent zone in the other territory. That is because that longer line is permitted to meet the well-established rates by the direct lines, but so far as the rate being obtained there is a rate in effect which is not a departure. I might leave a map with the committee, if it is desired, illustrating that situation a little. It is the western percentage map. There is a similar one eastbound of the adjustment of rates from seaboard territory to this western territory of Chicago and the Mississippi River; that is, New York on one hand and Chicago on the other should represent the base line, the 100 per cent rate. There is a zoning or grouping of the rates throughout that central territory which are based in a measure upon mileage. For example, just east of Chicago there is what is called the 96 per cent group; then there is the 85 per cent group, the 82, the 78, and the 76 per cent groups, until we arrive at Pittsburgh, which is 60 per cent; west of Chicago it is 110 per cent, and at St. Louis it is 117 per cent.

Now, by the direct lines coming into this territory, some operating by way of Buffalo and some on the lower bank of Lake Erie, some operating around by Pittsburgh and some operating by Parkersburg and through these main gateways, there is really no departure from the fourth section except as you come from a zone to a zone you may have to pass through a higher zone, but by the lines operating through Washington and the Chesapeake & Ohio, or by water line to Norfolk and thence by the Chesapeake & Ohio to Cincinnati; that is, the longer line which meets the direct line rates there are occasions where, for example, in passing through Cincinnati, they pass through the 87 per cent zone into an 84 per cent zone, and to that extent there is a departure from the fourth section.

Of course, these various routes are of advantage to shippers, particularly the shipper who is located upon one line in a particular zone or district where the destination point, the industrial destination point, may be located upon another line, and through its interchange arrangement they can handle the business between the same points at a lower level of rates, and the shippers have the advantage of the different routes, which is very important and should be continued; because if the business to all points goes by the direct line—

the short line—I do not know what will happen to the weaker lines. Under a rigid observance of the fourth section the weaker lines, in my judgment, would become still weaker or poorer, and the stronger lines would become stronger, because the weaker lines have to exist by getting a share of the through business to help them in carrying on their general business.

Now, the rate, mind you, by the longer line—and this is a mileage scale per ton per mile—is probably just the same for 1,000 miles as the rate by the shorter line for 1,000 miles, but it takes them twelve or fifteen hundred miles to reach the terminal point, and naturally their rate per ton per mile would be less. That is a situation that does no one harm and is of benefit. Where the lines are closely related as to distance—take, for example, in the Central Freight Association territory, under the mileage scale established in that territory, some departures are permitted on the joint rates, and under long-line rates, by which the intermediate territory is not held down to the short-line rate, but at the same time the rate is held down by a maximum differential to be maintained as compared with the short-line rate.

I can leave this map with the committee, if it is desired, but I think it has been before you.

Senator Pomerene is not here. He wanted to ask me a question yesterday, and that was in regard to a shipment to the Pacific coast. He thought Ohio was bearing a higher rate than New York. He did not know why the factories in Ohio should be paying more than the factories farther east in reaching the Pacific coast. I do not know whether he knew that the "postage-stamp" rate—that is, the same rate—is made from all that eastern territory to the Pacific coast.

I believe that is all.

The CHAIRMAN. The committee is very much obliged to you Mr. Lincoln. We will now hear the next speaker—whoever is in charge will call him. I was notified that Mr. Chandler would be next, and I believe you are now in order, Mr. Chandler.

STATEMENT OF MR. W. H. CHANDLER, MANAGER OF THE TRANSPORTATION BUREAU OF THE BOSTON CHAMBER OF COMMERCE, BOSTON, MASS.

Mr. CHANDLER. Mr. Chairman and gentlemen, I am manager of the transportation bureau of the Boston Chamber of Commerce and appear for the Boston Chamber of Commerce, the New England Traffic League, the New England Pulp & Paper Traffic Association, the Manufacturers' Association of Connecticut, the Worcester (Mass.) Chamber of Commerce, the Essex County (Mass.) Associated Boards of Trade, the Woonsocket (R. I.) Chamber of Commerce, the Springfield (Mass.) Chamber of Commerce, the Providence (R. I.) Chamber of Commerce, and the Arkwright Club, of New England. The Arkwright Club had representatives here, but they asked me to speak for them.

I shall not undertake to go over the transcontinental situation; I think that has been fully covered. My testimony will relate to a very large extent to the fourth-section violations in the Southeast and in what is known as Central Freight Association territory.

I have been asked to prepare certain figures, so that the committee may have the information that was requested of one of the witnesses yesterday.

The CHAIRMAN. What we particularly want to know is how the amendment proposed to the fourth section will injuriously affect or beneficially affect particular communities.

Mr. CHANDLER. Mr. Chairman, I shall undertake to make my statement as brief as possible. I have prepared it, and, in order to save time, although I hate to do it, I will read it; but you may interrupt me as you see fit.

All of these organizations and shippers are opposed to a rigid fourth section, as provided in Senate bill No. 360. The opposition is based upon a close study of what this bill means to New England. From a purely academic standpoint one might reason that a carrier is not justified in charging less for a long haul than for a short haul, the latter being included in the former. One could reason just as conclusively that a charge for a haul of the same distance should always be the same in the same territory. In actual practice, in dealing with rail rates, or with rail-and-water rates, something more than distance must be considered, such, for instance, as geographical location, market competition, transportation conditions, and transportation routes.

If it is the desire to deprive the seaports of their rail advantages, and to place all of the territory contiguous to such ports in the same relative position as points far inland, so far as all-rail transportation is concerned, a rigid long-and-short-haul-clause will accomplish that end, for the rail carriers are as much regulators of water carriers as are water carriers regulators of rail rates. I do not refer to unbridled competition, but such as we now have.

If it is the desire of Congress to increase the general level of rates to and from noncompetitive territory, and to encourage an increase in port to port rates by water lines, a rigid long-and-short-haul amendment will bring about that result.

If rail carriers are to forego participation in traffic between ports they will have to increase their noncompetitive rates to make up the deficit, unless they are now actually receiving more revenue than is necessary for their welfare.

Dealing with the question from a practical standpoint, where the competition is between rail carriers only, one or more being long lines—generally weak lines—one of two things must necessarily happen, if this bill is passed: First, the long line will continue to meet short-line competition, and reduce all intermediate rates; or, second, the long line will refuse to meet the short line rates and lose the competitive traffic.

In either event the long line's revenue would be depleted. In the latter event the shipper and consignee would suffer as well as the long line. They would be limited to the use of the short line, and, in most cases to the terminal delivery of that line. Competition being eliminated, the service would deteriorate. The direct route would become congested, and the shipper or consignee would have to pay higher rates over the long line to secure movement of his traffic. The long line, being deprived of competitive traffic, would have no incentive to give good service, and its local service would soon be affected.

As illustrating this point, the Chesapeake & Ohio is a long line from Boston to Central Freight Association territory—and when I speak of the percentages, Mr. Chairman, I see you have the percentage map in front of you and you can readily follow what I am about to say.

The CHAIRMAN. Central Freight Association territory?

Mr. CHANDLER. Yes; Central Freight Association territory. Cincinnati is an 87 per cent point, the first-class rate from Boston being 98 cents. The Chesapeake & Ohio Railway handles freight from Boston to Urbana, Ohio, and Delphos, Ohio, both 83 per cent points, taking a first-class rate of 93 cents through Cincinnati; also Sidney, Ohio, an 84 per cent point, taking 94½; Dayton, Ohio, the same; Toledo, Ohio, and Detroit, Mich., both 78 per cent points, taking a first-class rate of 87½ cents; and the Detroit rate is applicable via the Wabash, through Peru, Ind., a 96 per cent point, the first-class rate to which is $1.08.

That illustrates, in a general way, the departures from the fourth section in central freight association territory.

Lima and Deshler, Ohio, 80 per cent points, and Piqua and Troy, 84 per cent points, are handled through Cincinnati, an 87 per cent point. The whole central freight association territory is honeycombed with such departures from the fourth section.

Now, do you want to deprive the weak lines of participation in this traffic? What good purpose would be served by doing so?

As to competition between all-rail lines on the one hand and rail-and-water competition on the other, the situation would be: First, the all-rail carriers to the ports would have to level their rates to the water-competitive basis, or as nearly so as might be necessary to secure a share of the traffic, reducing all rates to intermediate points, many of which are not entitled to the port basis by any method of reasoning, because of their geographical location. This would materially reduce the earnings of the carriers. Or, second, these carriers would make their rates irrespective of water competition, which would mean substantially a mileage basis and a very material increase, leaving the port-to-port traffic to the water carriers, who would quickly increase their port-to-port rates, for the water lines are not operated by philanthropists. The interior territory would be deprived of water-competitive rates, except on water-borne traffic, where the port combination would make lower than the all-rail rate. This would not benefit points very far inland, and where it did benefit them they would have to ship via the water line—a disadvantage in some cases, under which they do not labor at this time.

Where coastwise steamship lines and cross-country rail lines serving the south Atlantic and Gulf ports now participate in traffic in competition with all-rail carriers they would have to retire from much of the business they now handle so satisfactorily, not only to themselves but to the shipping public they serve.

From the South Atlantic ports the rail lines, generally speaking, are east-and-west lines. Some of them are "weak sisters" in the railroad family, even under present conditions. Those that are strong, like the Central of Georgia, would have their revenues materially reduced, or would have to retire from the competitive traffic.

Illustrating what that means in the southeastern section of the country, that we are very much interested in, I have here a Southern

Railway map. Just take the route from Atlanta to Valdosta, Ga., running due south from Atlanta, on business originating in eastern territory. I have taken the rate from Boston as typical, because the rates from all other Atlantic ports and interior seaboard territory are made with respect to the port rates. The rail-and-water rate, first class, to Atlanta, Ga., is $1.565. For 90 miles south, to Macon, on the Southern Railway, that rate is not exceeded, but when you get to Macon the rate becomes $1.50, on account of rail-and-water competition via Savannah. After you pass Macon you pass the water-competitive situation, and the rate to Cordele is $1.565. That is another common point. The maximum intermediate rate between Cordele and Macon is $1.85. Then going south from Cordele to Valdosta we find the rate $1.565 again. There we have a water-competitive situation, the same as at Atlanta, while we have an intermediate rate at a point called Arabi of $1.725.

Now, if the line through Norfolk is not permitted to meet the competition of the lines via Savannah, Jacksonville, and Charleston to that territory, it means that every rate that they put into effect on that line between Atlanta and Valdosta would have to be reduced to $1.50 as far south as Macon, and $1.565 from Macon to Valdosta. That would mean a very material reduction in the revenues of the carriers.

The second route is from Atlanta to Vicksburg and Natchez. Taking the Southern Railway down to Atlanta, we have $1.565. Then, going from Atlanta westbound, over the Atlanta & West Point and the Western of Alabama, the highest rate between Atlanta and Montgomery is $1.875, while at Montgomery it is $1.625. At all intermediate points between Montgomery and Selma—two points on the Alabama River served by boat lines—the rates are $1.875. When it gets down to Selma it drops to $1.625 to meet wattr competition. The highest intermediate rate between Selma and Meridian is $2. That is reached at a point called Curl. When it gets to Meridian it drops back to $1.74. Between Meridian and Jackson there is no diviation from the fourth section. When we get to Jackson the rate is $1.85. Between Jackson and Vicksburg the rate reaches $1.90. When we get to Vicksbrg—a Mississippi River water-competitive point—it drops to $1.59. Between Natchez and Jackson the rate reaches $2.15, on a branch line, but when we get to Natchez we have a rate of $1.59, the same as to Vicksburg.

That shows that the rail lines are meeting, to a certain extent, water competition, and that the commission has permitted them to put in these rates; in fact, the commission prescribes these rates in the fourth section order affecting the southeast.

Senator POINDEXTER. The testimony of the United States engineers before a committee of the House was to the effect that there was no water transportation on the Mississippi River, and they pointed out the fact that every line that undertook to operate was driven out of business by the railroads being allowed to make rates based on out-of-pocket cost.

Mr. CHANDLER. These rates were prescribed by the Interstate Commerce Commission, and I assume that the Interstate Commerce Commission, Senator, justified the rates on the ground that there was water competition.

Senator POINDEXTER. That is exactly where you are mistaken. They justified them on the ground that there might be water competition. In other words, they said, if they did not allow the railroads tition—potential water competition. In other words, they said, if they did not allow the railroads to make these low rates, there would be some boat lines established; and, consequently, in order to prevent the boat lines from being established they put in low rates, which prevented them from being established.

Mr. CHANDLER. I was under the impression that we have boat lines on the Mississippi River, recently established.

Senator STANLEY. Water competition on the Mississippi River is not a theory; it is a fact that exists.

Senator POINDEXTER. Certain water transportation, yes; but not to these points that the witness is speaking of now.

Mr. CHANDLER. Of course, I am not familiar with what is on the Mississippi River at the present time. I have seen statements, however, from the Director General to the effect that he is operating barge lines on the Mississippi.

The CHAIRMAN. How much freight do you ship from Boston by way of the Mississippi River to these points?

Mr. CHANDLER. At the present time we are not shipping any. Our rates are so adjusted as to permit us to take advantage of the ocean-and-rail rates. They have ocean-and-rail rates to New Orleans. I know that there is competition on the Savannah River and there is competition on the Alabama River. I have seen, within a few months, boats operating between Mobile and Montgomery on that river, at Montgomery. From Boston to Montgomery the rate is $1.625. From Boston to Mobile the rate is $1.475. At Wilcox, Ala., an intermediate point to Mobile, the rate reaches $2.15. As I say, when you get to Mobile, a water competitive point, where they have actual boat service, the rate is $1.475; but between Mobile and New Orleans, at Dunbar, La., the rate reaches $1.84. At New Orleans we have the same conditions that we have at Mobile, and the rate is $1.475, and, of course, there is direct water service to those points.

Now, suppose you say to the carriers that they must observe a strict long-and-short-haul provision. It would mean that every rate they made for southbond traffic would have to be reduced to the level of the Mobile and New Orleans rates, or the lines would have to advance the rates to the maximum between, we will say, Washington and New Orleans. You could only do one of two things: You would have to advance some of the rates—you might take the $1.565 rate to Atlanta and spread it for 500 miles further, into New Orleans. I do not believe the railroads would do it. The natural thing to do would be to get out of competition. They have got to raise their rates to the intermediate points, to make up for the loss of revenue. Throughout this southeastern territory a large volume of the business has in the past moved to these common points—these points where they have the depressed rates, where you either have actual or potential water competition—and the Interstate Commerce Commission has authorized that adjustment in the South, as I will point out.

Take the rate to Augusta, Ga.; Augusta is a point that has actual water competition from the east all the way, by steamer to Savannah and by boat line up the Savannah River. In moving into Augusta

via Charleston the rate to Augusta is $1.35. At a South Carolina point by the name of Montmorenci the rate reaches $1.475. Those rates are generally based on Charleston—the water rate to Charleston plus the arbitrary for terminal or insurance, etc., and the local out. At Augusta the Clyde Line and the Southern Railway are permitted to meet the competition via Savannah.

Between Augusta and Atlanta there are no violations, and there you have the $1.565 rate. Going to Chattanooga, the rate is $1.565, but to all stations between Atlanta and Dalton, Ga., the rate is $1.625—slightly higher. Between Chattanooga and Memphis you reach a rate of $1.85, but when you get to Memphis, an all-rail point from the east, on the Mississippi River, affected by water competition, your rate is $1.365.

Now, if these lines via Charleston, Savannah, and Norfolk are to participate in business to Memphis and into that southeastern Mississippi Valley territory, they have got to make a maximum rate on the direct routes from Norfolk, Savannah, and Charleston on business intermediate to Memphis of not over $1.365.

Senator POINDEXTER. What difference does that make to Boston?

Mr. CHANDLER. They will not do it. They will advance our rates. We can ship into Memphis all-rail. It does not make any difference to us on Memphis business, but it would make a very material difference to us on this great big southeastern territory. It would destroy the relationship between the East and the Central West and St. Louis, and it would simply put us out of the market where they could get the goods in the West at the same price they could get them in New England. It would be a poor business man who would buy goods in New England merely as a matter of sentiment. We do not find any of that kind to-day.

Senator POINDEXTER. You are afraid the West would get some of that business?

Mr. CHANDLER. We have always been afraid of the West getting it. We are afraid of anybody getting it.

Senator POINDEXTER. The West is very glad to get it.

Mr. CHANDLER. If I were in the West I would be fighting New England for that business just as hard as they are fighting us—and harder, if I could. We are so related with them now that we can do business with them, but we have not any monopoly of it. There was a time when, if you wanted any goods that were manufactured in New England, you had to come to us for them, because they were not manufactured anywhere else, and the freight rate was a matter of indifference to us. I suppose that is the reason we have some very high rates. But now, if we want to handle business down toward Natchez, we have got to reduce the rates to the basis of the Natchez rate, which is $1.59. That would be the maximum rate we could stand from the East into that territory. The railroads, in their present financial condition—which we hope will not continue forever—could not afford, in my opinion, to reduce their revenues. I have never been accused of holding any brief for the railroads, but if they do not make enough money to give us the service, of course we suffer; and I will say this, that so far as the freight-rate adjustment is concerned for a long time, on the average run of manufactured commodities, I am of the opinion that the relative adjustment between producing communities of competing

communities is of a great deal more interest to the producer than the rate itself.

Senator POINDEXTER. I agree with you.

Mr. CHANDLER. It is not a question of the measure of the rate, it is the relation of the rate to a rate from some other point where that commodity is produced.

Senator POINDEXTER. Believing that, why do you oppose an adjustment or rate relationship between communities so as to avoid discrimination? If you believe that it is so important to avoid discrimination, why not make an adequate rate all around without discrimination?

Mr. CHANDLER. I do not think I have ever asked for that. The first thing we want is the benefit of our ocean competition, which has regulated the rates into this southern territory.

Senator POINDEXTER. They can not take that benefit away from you. There is no legislation that could be enacted that could deprive you of your ocean transportation.

Mr. CHANDLER. Yes; you could legislate in this way: That if you make a strong long-and-short-haul clause the vessels will not be able to get sufficient tonnage to give us the service that they are giving at the present time, and the result will be that the service from the other points will be so much better that we will lose the business. The freight rate itself is not the only thing in selling goods.

Senator POINDEXTER. You think the interior points should be taxed in order to give an artificial advantage to Boston?

Mr. CHANDLER. I think you are reversing what I have pointed out. We think the interior points in the southeast should be kept on the basis they are at the present time, so that they may have the benefit of all-rail and rail-and-water competition. I am against any advance in rates.

Senator POINDEXTER. Take Curl, Ala., for instance, which pays $2 as against its neighboring towns with rates of $1.625 and $1.74. Do you think that is any great benefit to Curl?

Mr. CHANDLER. No; I think you are wrong there. The fact of the matter is that the rate to Curl was probably 100 per cent higher than it is at the present time, as I will point out a little bit later—not at the present time, but I meant relatively so—and after this adjustment in the southeast, I think the only people who made any kick about it were the people at the jobbing centers who wanted to continue the advantage they had over these interior points; but the advantage they have at the present time is so small that the interior points are tickled to death. I have seen a number of letters from interior points, in a case in which I was interested, expressing their appreciation of what the commission had done and the adjustment they now have.

Senator POINDEXTER. In other words, they were better off than they had been before?

Mr. CHANDLER. Very much so in relation to the jobbing points.

Senator POINDEXTER. But they are still suffering from discrimination.

Mr. CHANDLER. I am afraid I would have to ask you to define "discrimination" on that. I do not understand it to be discrimination, because the Interstate Commerce Commission has said it was not. There may be discrimination, but it may not be undue. Now,

if you take the rate to Memphis and Greenville—the rate to Macon is $1.50; to Birmingham, $1.625; intermediate to Memphis, $1.85; but when you get to Memphis it is $1.365. There is where your water competition comes in, either actual or potential.

Out from Birmingham to Columbus, Miss., the rate is $1.85. There is no violation between Birmingham and Columbus, but to Greenville, Miss.—another water competitive point—the rate is $1.59, with the intermediate points at $1.90.

Now, you will notice that this difference between the water-competitive point and the point in the interior rarely exceeds or even equals the local rate for five miles authorized by the Director General in the 25 per cent advance. Generally it is 6, 8, or 10 cents a hundred. That does not permit the jobbers at the common points which I have been naming to buy in the east or in the west and bring it into that point and reship it out at a cheaper rate than could the man at that point by shipping it direct to his station. That being the case, I do not think that anyone will contend that the discrimination is undue.

Now, take a northbound product; take cotton. Cotton for a great many years was actually shipped from Memphis to the New England cotton mills. We are large consumers of cotton. I do not know that any business is moving that way now. There may be some moving by barge; but with the rates adjusted as they are, I think naturally it would go to the rail lines. Take the rate from Memphis to the New England cotton mills; it is 74 cents a hundred. Now, the Southern Railway would handle that through Chattanooga. The direct line would be the Louisville & Nashville Railroad and the rail lines from Cincinnati. When you get to Grand Junction, Tenn., the rate to New England cotton mills is 99½; from Corinth, Miss., it is 98½; from Sheffield, Ala., it is 87 cents, and from Huntsville, Ala., the same, 87 cents. When you get to Chattanooga, Tenn., it is 83 cents.

Going the other way, if the Frisco line wantel to get some of this cotton to haul it through Savannah or through Norfolk, at Holly Springs, Miss., we find the rate is 93½ cents, and at Tupelo, Miss., $1.035. At Birmingham the rate is 83 cents. Take the rate from Memphis to New Orleans, it is 42 cents a hundred pounds. An intermediate point on the Southern Railway, Cleveland, Miss., has a rate of 67 cents a hundred pounds. There is no water competition there. Then, at Corinth, Miss., the rate is 73 cents a hundred pounds. Cleveland, I believe, is on the Illinois Central, directly intermediate down the river, but not on the water.

Now, the enforcement of a rigid fourth section provision would mean either a very material advance in this section of the country, or a reduction of all rates to the level of Memphis and Mobile.

In actual practice in the southeastern section of the country, honeycombed with navigable rivers, it is not consistent to require rates to be made by a set formula; namely, a mileage scale. The rule of reason has been applied by the Interstate Commerce Commission after an investigation extending over several years, and while departures from the fourth section have been authorized, where no undue discrimination would result, the result has been very satisfactory, indeed, to all of the territory except to a few jobbing points actuated by selfish motives. The most flagrant viola-

tions of the fourth section were found in the southeast. Such violations were the rule rather than the exception.

At that time there was not a local station in the entire southeastern territory that was not based on a combination of the rate to the jobbing point plus the local back or forward. I have seen rates to the first station outside of Savannah, Ga., based on Memphis. They made the lowest combination. It was always the local from some jobbing point, and under this bill that is the way those rates would be made. There was a fourth section violation everywhere.

Senator POINDEXTER. I wish to correct your statement, so far as it has reference to this bill, about a mileage system. This bill does not provide for a mileage system at all.

Mr. CHANDLER. I appreciate that, but the result of the bill would be a mileage system. It would be based on distance, as they are based on distance in Australia and South Africa and other countries.

Senator POINDEXTER. But this bill does not require that.

Mr. CHANDLER. No, it does not; but the carriers would have the right, under this bill, to reduce the rates into this southeastern territory, with Memphis and Mobile as a maximum. If they can afford to do that we would be tickled to death to see them do it.

Senator POINDEXTER. It would also allow them to put the rates up at the terminals to equal those at the interior points, or at some intermediate point?

Mr. CHANDLER. Yes; if the commission would permit them, they would have the right to advance the rates. Such violations were the rule, rather than the exception, and yet, under the wise provisions of the present law they have been adjusted to the satisfaction of 99.9 per cent of all the points affected.

We have had coastwise rail and water service for more than half a century—and, in that connection, I want to say that to points east of the Birmingham-Chattanooga dividing line the rail-and-water routes—the ocean-and-rail lines via Charleston and Savannah and Jacksonville—have actually made the rates to the Southeast. The rates were never made by the rail lines, and the water lines made a differential lower. The water lines fixed the rates and forced the rail lines to carry a differential higher. That is absolutely correct. They have been the regulators of the rates, and they have kept them on a substantial basis and have built up their fleets from the earnings out of that service. I say they have built their vessels from their earnings. I was with the Savannah Line for a number of years, and I was very close to the manager of that line, and he showed me the records and told me how he had built his boats from earnings and from the insurance fund. Not a single line on the Atlantic or the Gulf has been allowed to deteriorate.

I know that before the Panama Canal was built, the trunk lines endeavored to get the Old Dominion Line to do away with the differential, or to do away with it very greatly; and they contemplated putting in the same rate by the rail-and-lake lines to Chicago on the boats they owned as they carried all-rail; and it is a matter of record that from the time the railroads commenced to own boats on the Great Lakes, the differential between the all-rail and the rail-and-lake rates was gradually diminished. We have had nothing of that kind into southeastern territory. The coastwise lines have been of great benefit to the communities they serve. Now, if you are going

to restrict the territory from which they may draw their cargo or to which they may take cargo, you will find they will have to decrease their sailings. You can not send a vessel out on the ocean riding like a cockle-shell.

Senator POINDEXTER. You claim, I understand, that they will be injured because manufactories will develop in the southern territory and lessen the volume of the movement of manufactured goods from New England?

Mr. CHANDLER. No; I do not think that at all. The southern territory is a manufacturing community in certain commodities, and they draw manufactured products of other kinds from other communities.

Senator POINDEXTER. Then, just how is it they would be hurt?

Mr. CHANDLER. Take, for instance, the all-rail rate to Memphis. That will not be increased. That is a rail-made rate. Now, if you reduce the rate, the carriers have either got to go out of the business—and, mind you, they handle a lot of business to points beyond Memphis, based on Memphis combination—and if you are going to deprive the water lines of their tonnage, the amount of business they would get would be less, and their sailings would have to be reduced, and we would get poorer service.

Senator POINDEXTER. How are you going to reduce the amount of tonnage that goes to that territory by the boat lines?

Mr. CHANDLER. Because we are going to have our rates advanced.

Senator POINDEXTER. What rates advanced?

Mr. CHANDLER. The rates to Memphis.

Senator POINDEXTER. The railroad rates?

Mr. CHANDLER. Oh, not at all; not the railroad rates, the ocean-and-rail rates. Here is a line operating from the East through the port of Savannah. It handles an enormous amount of tonnage into this southeastern Mississippi Valley territory. Now, if you force the Savannah line to reduce the rates to all this intermediate territory to the basis of the Memphis rate, which is made all-rail, you will do away with a lot of tonnage that we are getting, not only here, but to points based on Memphis.

Senator POINDEXTER. How are you going to do away with it?

Mr. CHANDLER. Because they can not afford to cut the rates from this territory. They can not afford to do it.

Senator POINDEXTER. Do you mean they are going to quit eating and wearing clothes and shoes?

Mr. CHANDLER. No; but the steamer lines can not afford to do the business on the lower rates.

Senator POINDEXTER. This does not reduce the rates on the steamer lines. You were just arguing that it was because the railroads would advance their rates.

Mr. CHANDLER. No. I am talking about the rail-and-water rates.

Senator POINDEXTER. This does not deal with the rail-and-water rates at all. This only applies to the railroads.

Mr. CHANDLER. If I understand the bill, it deals with the fourth section, and it does not make any difference whether the fourth section violation is by a railroad or by a railroad and a steamship line.

Senator POINDEXTER. That is exactly where you are mistaken. It does not deal with that at all. It has nothing whatever to do with water rates.

Mr. CHANDLER. I am not speaking now of your all-water rates, Senator. This says that "it shall be unlawful for any common carrier, subject to the provisions of this act, to charge," and so forth.

Senator POINDEXTER. I do not understand yet your statement that the equalization of railroad rates in the southern territory is going to take business away from the ship lines. One of the objects of this bill is to enable the ship lines to operate successfully.

Senator UNDERWOOD. May I ask a question here, Senator?

Senator POINDEXTER. I would like him to answer my question.

Senator UNDERWOOD. Then, go ahead.

Mr. CHANDLER. Senator, it is very clear that these lines from the Atlantic ports into Memphis are east and west lines. Take their rates, and it would not be a fourth section violation for a north and south line carrying business to Tupelo, to charge a higher rate to a point east or west of Tupelo than they charged to Tupelo. That is not a violation of the fourth section.

They could continue to maintain the all-rail rates that they have to-day, which are identically the same as the ocean-and-rail rates; but if the Savannah line wanted to continue to participate in business to Memphis it would have to reduce every rate from Macon, Ga., to Memphis, Tenn., to the basis of the Memphis rate, and every rate from Savannah and Mobile to New Orleans to the basis of the Mobile-New Orleans rate.

The CHAIRMAN. It is now nearly 12 o'clock, and I assume the members of the committee will wish to be in attendance upon the Senate; so, if there be no objection, we will adjourn this hearing until 10 o'clock to-morrow morning. I would suggest that the committee is very desirous of closing the hearing to-morrow.

Senator KELLOGG. Mr. Clark was a witness before the committee previously.

The CHAIRMAN. Yes.

Senator KELLOGG. I suggest that we ask Mr. Clark to come here to see if there has been any change in the circumstances.

The CHAIRMAN. We would probably not be able to call Mr. Clark to-morrow.

Senator KELLOGG. Then, at some time.

The CHAIRMAN. He will be heard before we conclude the hearings.

Senator UNDERWOOD. Mr. Chairman, I suggested to you the other day that a gentleman from Montgomery desired to be heard, and I wired him the other day, at the suggestion of the chairman, that he could probably be heard on Thursday.

The CHAIRMAN. That is to-morrow. We will try to hear all who are present at that time and will do the very best we can, at least, toward hearing him.

We will now stand adjourned until 10 o'clock to-morrow morning.

(Whereupon, at 11.50 o'clock a. m., the committee adjourned until Thursday, June 12, 1919, at 10 o'clock a. m.)

LONG AND SHORT HAUL BY COMMON CARRIERS.

THURSDAY, JUNE 12, 1919.

UNITED STATES SENATE,
COMMITTEE ON INTERSTATE COMMERCE,
Washington, D. C.

The committee met, pursuant to adjournment, at room 410 Senate Office Building, at 10 o'clock a. m., Senator Albert B. Cummins (chairman) presiding.

Present: Senators Poindexter, McLean, Watson, Kellogg, Fernald, Frelinghuysen, Elkins, Robinson, Underwood, and Stanley.

The CHAIRMAN. The committee will come to order.

Senator KELLOGG. Mr. Chairman, may I at this time, as I shall have to be absent from the committee for a while, have a telegram incorporated in the record?

The CHAIRMAN. The telegram introduced by the Senator from Minnesota will be put in the record.

(The telegram referred to is here printed in full, as follows:)

MINNEAPOLIS, MINN., *June 12, 1919.*

Hon. FRANK B. KELLOGG,
United States Senate, Washington, D. C.:

Following is a copy of telegram to Senator Cummins:

"Poindexter bill would not only do us great injury but would also injure all manufacturers of iron and steel articles in the Middle Western States and make it impossible for them to compete for intermountain or western trade, which is their natural territory, and would debar them from export via the Pacific. As you know, all steel prices are based on Pittsburgh. The Middle West does not object to help paying for the Panama Canal, but does object to having its business curtailed by reason of its construction. We object to being the victims of a fight between the intermountain and Pacific coast jobbers. The development of interior waterways will further increase the necessity for fourth section relief, and in our judgment discretion should remain with the Interstate Commerce Commission.

"MINNEAPOLIS STEEL MACHINERY CO."

The CHAIRMAN. Mr. Chandler, you may proceed.

STATEMENT OF W. H. CHANDLER—Resumed.

Mr. CHANDLER. Mr. Chairman, I was speaking yesterday, when I left off, about the coastwise steamship tonnage. I have drawn off a memorandum which I would like to put before you, and I think you can follow probably better what I am about to say to you.

The steamship lines between the ports of Boston, New York, Philadelphia, and Baltimore could not live on the local tonnage that they

handle between the ports. In other words, there is not enough business out of Boston, on the average, I will say, to load a 50-ton schooner to Savannah. Then we have naval stores and timber and other commodities moving northbound, and we have to depend on the traffic from the interior of New England and the interior of the Southeast in order to fill those ships and give the service that we have been taught to expect we have the right to into the Southeast.

Now, if you take those figures that you have in front of you and the rough diagram that I have drawn of the North Atlantic and South Atlantic coasts, you will see that from New York to Savannah, or from Boston to Savannah, you have a very low rate; that is, a low rate under present conditions. You will find that the all-rail rate to Savannah is made not the same as the all-water rate, but is somewhat higher; that is to say, it is made, taking all conditions into consideration, at a figure which the rail lines believe will enable them to carry some traffic under some circumstances. The rates are graded back from the ports according to distance—the farther back you go from a port, the higher the rate. At Macon, Ga., you have a rate which is higher, although that is a water competitive point, than you have to Memphis, Tenn.

Now, if you put this fourth section bill in, it will be necessary for you to level every rate between Memphis and Macon or some point east of Macon down to the Memphis basis, or go out of that southeastern Mississippi Valley territory—go out of the rate to Atlanta, to Montgomery, and all the territory where the steamers handle the freight.

In other words, if you eliminate from your steamer tonnage the freight that they would have to give up in the event of their not meeting the competition at Memphis, you will give up practically three-fourths of their cargo. Those rates into Memphis are not made by the steamer lines. When you get to the territory west of a line drawn from Chattanooga through Birmingham, down to Meridian and Mobile, the rates are made by rail lines—north and south lines. Now, those north and south lines, as I said yesterday, can go to Memphis at the rate that I have shown on that, and then build their rate on the Frisco System or back across the Southern Railway, and they would not violate the fourth section. They could get the business, but the Savannah Line or the Clyde Line, in taking business into Memphis, has got to go right through that territory which has charged a higher rate. and the result would be that Savannah would not be able to meet the competition and the business would go to the all-rail lines, and this southern line would be deprived of the tonnage.

When authorized by the commission in the 15-per-cent case to increase their rates to the all-rail basis, these rail-and-water lines declined to do so, and even when placed under Federal control they did not comply with the order to make all-rail rates, except when the trunk lines controlled the rate situation.

In the case of the Old Dominion and Merchants & Miners Transportation Co., operating through Norfolk to this Ohio territory, that I was describing yesterday, there the rates were made the same as the all-rail, and a very large part of the business was lost to this line. In fact, the service was very much depleted and the business was sent by rail, and we very strongly suspect that it was the inten-

tion when that order was issued to deprive this coastwise line of a lot of tonnage that they had been taking away from the all-rail companies. Of course we do not know that that was the intention, but that was the effect, and instead of having three steamers a week from New York over the Savannah Line, and two or three steamers out of Boston, we had one steamer, and that steamer was semioccasional. The business was taken away from this line and forced into the all-rail route. Now we have got poorer service by the all-rail line than we did by the steamer line. The steamer service is remarkably good, a great deal better than the rail line gave us.

This certainly does not indicate that these coastwine lines have destroyed competition—even when owned by the railroads. The railroads own the Morgan Line; they have an interest in the Old Dominion Co. and the Savannah Line, and the Clyde Line, and Merchants & Miners Transportation Co. are separate steamship companies, independent and competing with railroad-owned boats in practically all the territory that they handle.

The Mallory Line competes with the Morgan Line at every point, except New Orleans proper.

It is doubtless true that under a loosely drawn fourth section the transcontinental lines were guilty of discriminations, which are now removed, but the all-water lines have prospered under the present act, even when engaged in transcontinental traffic. When the canal was closed in 1916 there were three strong lines engaged in the trade, and the A. & H. Line had a fleet of 26 vessels, 17 of which had been acquired since 1907, besides paying substantial dividends. There are certain weak Canadian lines that violate the fourth section. They are known as differential lines because of their lower rates and longer routes. Force them to observe the long and short haul rule and New England and the West will lose a real factor in rate making.

For 30 years or more the trunk lines have done all in their power to make these lines give up their differential rates. You can do this by passing this bill. When the Railroad Administration issued Order No. 28 they instructed these lines to put their rates on the same basis as the trunk line standard rates. In other words, the short line Pennsylvania Railroad from New York to Chicago. We fought them with the director general and we succeeded in keeping them in.

This bill disregards industrial competition; it would seriously handicap some markets in reaching common consuming territory, and what naturally follows would restrict the purchaser in selecting markets of production. The business of the country has been built up on the present relative adjustment of rates that a mileage basis would destroy. A rigid fourth section would disrupt present relationships which are so necessary for the continuance of this situation. Eliminate competition, localize distribution, and increased cost to the consumer follows—for the greatest possible output and the widest possible distribution is what keeps down factory costs. It is to the interest of the buyer as well as to the manufacturer to have a broad territory from which to draw his purchases. It is competition that regulates prices and competition that improves the quality of the commodity. It is competition between carriers that keeps up service. Eliminate carrier competition and service at once

deteriorates. This is illustrated by the sailing-day plan the carriers recently attempted to inaugurate and did establish in certain communities. Where competition was eliminated we had poorer service than ever before. Our time from Boston to Cleveland, Ohio, which under competitive conditions rarely exceeded three days, was extended from seven to eleven days.

We do not believe that rail carriers should be permitted to destroy water competition and think the law as it stands is adequate to prevent it. The record of the commission since 1910 is such as to warrant our confidence in its ability to safeguard water lines, as well as the interests of the communities they serve.

Mr. UNDERWOOD. You say you think the present law is sufficient to prevent the destruction of water competition. Of course, I know that on the Mississippi River and some of our inland rivers, there are few boats plying, but they do not do a general traffic. I remember as a boy that the steamboats left St. Louis and Louisville on regular trips and carried commerce in the regular way like steamers plying between Boston and Savannah now. That is not now the case. There are some boats on the river, but practically water transportation on the Mississippi River, and many of the inland rivers is destroyed for long hauls. Now, that being the case, how do you reach the conclusion that the present law will save that situation? It is broad enough in itself, or has it not been properly applied? I would like to hear your view upon that.

Mr. CHANDLER. My view, Senator, is that this destruction of water competition occurred before this law was made effective—the present law. I recall when I was on the L. & N. Railroad it was a part of our religion to kill a water line. I think all old railroad men believed that they were doing the country a real service when they choked off water competition. I always felt that I was until I got a steamship line. Then, of course, my views changed.

Now, I think this law is this way: The law protects the water competition in this way—a railroad can not come in and reduce its rates as it sees fit, and then put them up when the water line is out. The commission has control over a situation to-day that we did not have when these railroads were cutting the rates from New Orleans to Montgomery something like 25 or 30 cents, which put the steamer *Nettie Quill* out of business—a situation which they put them up against when the *Nettie Quill* stopped running.

Now, the law as it is to-day, and as administered by the commission, will prevent anything of that kind.

Senator UNDERWOOD. I am not criticising the railroad managers, because it is naturally for any man, if you give him a free hand to do it, to make as much out of his business as he can. I am not saying this in a critical way, but the law ought to protect both sides of the question, and if you allow a railroad company to put down a rate at a competitive point on the water to a point where the steamboats can not go in competition, or can not carry freight in competition, it can put the burden of that line on the outside freight. The balance of this territory is broad enough for them to carry that loss, or approximate loss, but the steamboat company can not do it. When it has to carry freight at that rate it has to quit.

Mr. CHANDLER. Of course, that overlooks the fact that the steamboat reaches some points that the railroad does not.

Senator UNDERWOOD. That is true, but the points that it reaches, that are not competitive points, have a very small amount of freight movement so they can not make it up.

Mr. CHANDLER. I agree with you on that, but when the railroad, under the present law, realizes that if it puts down the rate to meet water competition it can not put it back, it is going to stop, look, and listen before it does it.

In the southeastern territory, this water competition, potential and actual, was taken into consideration by the commission, after a study, I think, of about three or four years, and the rates were adjusted on the basis which I understand has proven extremely satisfactory to the people in the South. I do not believe that at the present rates—which are the rates authorized by the commission, plus an advance of 6 cents a hundred on first class and 25 per cent on top of that, that there is any reason why we should fear that the boat lines can not compete at these water competitive points as against the rates that are being charged and will be charged for many years.

Senator UNDERWOOD. I am inclined to think you are correct about the situation as it stands to-day, but if men should put their money back into steamboats, they must have some guarantee of certainty or permanency in the future, or they would not put their money into steamboats and develop them again, and, therefore, there must be some protection allowed to guarantee them, if they reestablish the steamboat lines, that they are not going to be wiped out, and the law is the same as that under which they were wiped out. I mean when the railroad management has passed out of existence and we go back to the old conditions, you have exactly the same law under which they were destroyed before.

Mr. CHANDLER. Pardon me, but you do not mean that, I assume. You mean that we have a fourth section——

Senator UNDERWOOD. Yes.

Mr. CHANDLER. And you have wiped out that under substantially the same circumstances and conditions, and you have substituted for that when the Interstate Commerce Commission grants the railroads permission to deviate from the fourth section. In other words, it is not the same law—the act to regulate commerce as it has been since 1910—is not the same law as it has been under which the L. & N. Railroad and others in the southeast were able to reduce their rates and put water-line competition out of competition.

Senator UNDERWOOD. But from 1910 to 1915—January 1, 1915—it is the same law, and there was no real development of water transportation during that time?

Mr. CHANDLER. No; during that time, Senator, the Interstate Commerce Commission was engaged in a study of the southeastern situation. I think it is the most complex situation that the Interstate Commerce Commission has ever had to deal with. There was not a section of the country where the rates were made on the basing-point system, like they were in the South. On the one hand, you had the railroads saying, "If you reduce all our rates to the level of the common-point basis you will destroy us," and the commission found that to be true. On the other hand you had the local stations saying that they wanted their rates based on Atlanta, Ga., or Montgomery, Ala. Everyone had an idea if you removed this discrimination they should all spring up. You had boat lines, and, of course, some

of them wanted to see the rates put up as high as possible to the common points.

I think the commission made an excellent decision in the Southeastern case, and the fact that it has received so many letters of commendation from these small points, and so few from the larger points, leads me to believe that it has decided the case wisely.

Now, it is a fact that in 1910, when the law was passed, there was no automatic readjustment of the rates into the Southeast, or anywhere else. They had six months in which to find themselves, and there were a very large number of violations. A lot of them were not justified, and the commission so found, but I think, taken by and large, that there can be very little criticism of what the commission has done since 1910. Of course, we know that a great many of these bodies move slowly, and where you have such an amount of detail to deal with you can not deal with it in a short time and deal with it properly. But I have made rates in the Southeast; I know that situation pretty generally, and I know what the commission was up against, and I am satisfied that anyone who does know what it is realizes that while the commission may have taken three years to settle it it did a pretty good job and did it fairly quickly. That is my honest opinion.

Now, when you talk about boat lines, I do not believe there is anybody in this country any more in favor of water lines than I am, or the organization I represent. We have done everything we can to get water competition out of New England. We realize that unless we have water competition it would not be long before we would be a dead cock in the pit. It is our life. So you will not find us doing anything that is in anyway going to adversely affect water competition. I do not believe that the present bill as it reads—the act to regulate commerce—will hurt water competition in the slightest. Does that answer your question?

Senator UNDERWOOD. I see the answer, and I am glad to have your opinion on the subject. All I want to see is that the law is so stabilized that if a man wants to go into water competition he can put his money in with reasonable certainty and not feel that he is in danger any hour of being wiped out. I think the only way to develop a river—and we might as well stop the passage of the rivers and harbors bill to improve rivers and harbors if we are not going to guarantee capital. I stand on the proposition that these railroads should be on a solid financial basis, and hope that they will be so. At the same time I think that the law ought to be broad enough to protect a man who wants to put his money into water transportation.

Mr. CHANDLER. I agree with you fully, and we are engaged in trying to accomplish that in Boston. We have had some experience in putting on boat lines, or trying to do it, up in that territory, and I think we appreciate the difficulties that you have in mind—mostly railroad difficulties. But that is not recent.

In the case of Skinner & Eddy Corporation *v.* United States et al, handed down May 5, 1919, Justice Brandeis said that section 4 of the present act must be construed in the light of its enactment; that its specific purpose was to preserve water competition, and that the commission must construe this section in connection with section 3, which prohibits discrimination. The commission considers both the reasonableness of the rates at the intermediate points and the relation be-

tween such rates and those to the longer distant competitive points when fourth section relief is granted, and the commission grants such relief only when after final investigation it is convinced that the rates at competitive points are controlled by conditions beyond the control of the carrier; that the rates to the intermediate points are reasonable, and that the resulting relation is free from undue discrimination.

Senator McLEAN. Is all that a quotation from the decision of Judge Brandeis?

Mr. CHANDLER. No, sir; I have not attempted to quote Judge Brandeis. I am merely paraphrasing what he said, and that is the substance of what the Court found. To provide rates which are reasonable and free from undue discrimination is the whole purpose of the act as it relates to rates. The words "to provide rates which are reasonable" are not a quotation from his decision.

The power lies with the commission to determine to what extent carriers may meet water competition, or the extent to which one rail carrier may be allowed to compete with another and make higher rates at intermediate points. We believe the commission may be relied upon to administer the present law fairly to the shipper, to the rail carrier and to the water lines.

There are so many situations in this country where a strict observance of the fourth section would be harmful to shippers, consignees, and carriers, and so few where it would have a tendency to build up a community geographically situated so as to be unable to secure the advantages of water competition, that the committee should hesitate to take a step that will result in the elimination of the most powerful factor in the regulation of rates in the territory between the Atlantic Seaboard and the Missouri River and the establishment of a mileage basis for the determination of rates.

Senator POINDEXTER. I just want to put into the record here again, as I said on yesterday, the correction of the implication in the statement just made by the witness that this bill involves a system of mileage rates. It does not do anything of the kind.

Mr. CHANDLER. I do not want to have it understood that I mean the passage of this bill will mean that the rates will be made on a purely distance basis, a purely mileage basis. It will have the effect, unquestionably—and any rate man knows it—of making rates greater for a long distance than for a short distance. It will have a tendency to have an upgrade line of rates, where the distance increases. You can not get away from it unless you ignore every principle of transportation. The longer the haul the greater the cost of doing it, not in proportion to the distance, but you can not haul a car of freight a hundred miles as cheaply as you can haul it 50 miles, and the effect of this bill would be to make rates into the Southeast and into the Southwest, graded according to distance.

Now, whether it is a mileage scale or not, I submit that you could not afford—that is, a line handling this business, could not afford to lower the level of rates from the eastern seaboard to Memphis, Natchez, and Mobile, the intermediate points, to the rates applicable at the Mississippi River crossings and Gulf ports. If the railroads could afford to put their rates down all the way from Charlotte, N. C., or further than that, to Mobile, to the basis of the Mobile rate, then

being low rail and water rates, and they would be very seriously crippled should the present freight-rate adjustment be disturbed.

Freight-rate adjustments in the southwest as they now exist are the result of many years of study, the purpose being, so far as possible, to equalize rates so that no city would have an undue advantage over another.

Should Congress enact a rigid fourth-section clause, undue advantages would be given interior cities over Texas Gulf cost cities by reason of the fact that the interior cities could reach a million consumers on a distributing outbound freight rate based on a 75-mile haul, while the Gulf coast cities would have to pay on an outbound distributing rate to reach the same million consumers based on a 300-mile haul. Therefore, even though at the present time freight rates may be somewhat lower from all-rail points to Gulf coast cities than they are to intermediate points, yet when you take into consideration the aggregate of the in and out bound rate which is necessary in order to distribute your goods to the consumers, at the present time intermediate cities can deliver their goods to consumers at a less freight rate than can the coast cities; and if the coast cities are denied the privilege of fourth-section application the advantage accruing to the interior cities would be so great as to be undue.

Furthermore, we take the position, Mr. Chairman, that if a rigid fourth-section order was put into effect its results would force a universal mileage scale of rates, thus disrupting the present entire rate structure, cause consternation, uncertainty and great unrest over our entire country, with a guess and a gamble as to the final outcome of such a readjustment.

A few months ago the traffic department of the Railroad Administration under the Director General prepared a proposed universal mileage scale divided into three groups, viz., eastern, southern, and western. This tentative scale was submitted to various commercial organizations, business men, and heads of industries for criticism or approval. This theory of rate-making was universally condemned, and there has been no further effort upon the part of the Director General to put same into effect.

When I say the hard and fast fourth-section order will result in a universal mileage scale, I will cite one or two examples to prove the correctness of my contention.

Example No. 1: At the present time the rate on agricultural implements, St. Louis to Shreveport, is, in car lots, 62½ cents, Shreveport to Texas common points, 56½ cents, making a total rate, St. Louis to Shreveport and Shreveport to Texas common points, of $1.19.

The present rate on agricultural implement, St. Louis to Houston in car lots is 82½ cents. If deprived of fourth-section privileges the rate would be 95 cents; Houston to Texas common points, the rate is 56½ cents, making a total rate, St. Louis to Houston, Houston to Texas common points, $1.51½, giving Shreveport an advantage over Houston of 32½ cents.

Example No. 2: The present carload rate on tin cans, St. Louis to Shreveport, is 81½ cents, Shreveport to Texas common points is 60 cents, making a total rate, St. Louis to Shreveport and Shreveport to Texas, common points of $1.41½ cents. The present rate on tin cans in car lots, St. Louis to Houston, is 97½ cents. If fourth-

section privilege is taken away the rate would be $1.10, Houston to Texas common points is 60 cents, making a total, in and out bound rate, St. Louis to Houston, Houston to Texas common points, $1.70, or giving Shreveport an advantage of 28½ cents over Houston.

And right here, Mr. Chairman, I desire to say that this advantage would permit Shreveport to buy goods in St. Louis and other all-rail cities and distribute to San Antonio at a less freight rate than could Houston, notwithstanding the fact that Houston is 200 miles nearer San Antonio than is Shreveport, and the Shreveport shipment would pass through Houston destined to San Antonio.

Now, here is where I want to bring in the question this mileage scale. Shreveport, not violating the fourth-section clause, could not be required to pull its rates up, while Houston, operating under the fourth-section privilege, would be required by law to pull its rates up to the figures mentioned above, thus giving Shreveport undue advantages. The only cure for this would be a universal equitable mileage scale of rates. Many, many such examples could I cite, not only against Shreveport but New Orleans and other cities; but I will not burden this record further along that line of thought.

Mr. Chairman, fourth-section departures, in so far as all-rail lines are concerned, were primarily brought about at Texas ports by commercial trade conditions, i. e., all-rail lines reaching interior cities such as Kansas City, St. Louis, Chicago, and Louisville desired to participate in the movement of commerce against that which was manufactured in seaboard territory.

Example No. 3: A manufacturer of roofing in St. Louis, unless the all-rail routes to Houston made a rate that would in a measure meet the water competition of a manufacturer of roofing in Philadelphia, could not sell his goods in Houston. At the present time the all-rail rate on roofing paper from St. Louis to Houston is 5 cents higher than from Philadelphia to Houston via water. Houston merchants now patronize St. Louis roofing manufacturers to some extent, because of the quickness in time in the movement of freight (all-rail), St. Louis to Houston. However, if the fourth-section order becomes rigid, and the Houston merchant is required to pay 20 cents more per hundred rather than 5 cents more. he will discontinue buying in the interior cities and confine his buying to seaboard territory. The final result will be that the seaboard merchant, having no interior competition, will advance the price of his goods, and an unnecessary burden will again be placed upon the laborer, the mechanic, and all other consumers, and at the same time deprive the all-rail routes of this revenue.

Mr. Chairman, it is the universal belief of the citizens of our country that the railroads will soon be returned to their private owners. Director General Hines and many competent railroad executives are advocating in their return that there be not more than 20 independent trunk lines authorized to serve our country. It is advocated that the weak lines be absorbed and become a part of the strong lines. In the doing of this many of the conditions complained of in this bill will be eliminated.

We do not think it good policy to disturb the present rate conditions until the roads are returned to private control, and until we know in what manner they will be returned and what effect the reorganization will have upon the present rate structure.

If under the present conditions weak lines who are not now earning returns on their investment were deprived of meeting direct-line competition at competitive points, they would become weaker by thus being deprived of this revenue, and the "fat" lines would become "fatter." And if depriving the weak lines of this revenue resulted in additional advances in freight rates, the fat lines would be unreasonably enhanced in order to take care of the weak lines.

I want to say right here, before I read this, I have had dealings with coastwise freight lines during the last two or three years intimately, and almost every month, and I believe I am fully competent to make this statement which I am making, and I think due consideration should be given to it.

It is my opinion that should this bill become a law and fourth-section privileges now granted to Texas coast cities be eliminated, the coastwise-boat lines operating between Atlantic seaboard points and Texas gulf-coast points will advance their rates in proportion to the advance caused by the cancellation of the lower all-rail rates. In other words, the coastwise boats would maintain the existing parity between rail and water and all-rail rates.

Senator POINDEXTER. You say you think the boat lines will advance their rates to the existing railroad rates.

Mr. MORGAN. To maintain the existing parity.

Senator POINDEXTER. As to the interior points?

Mr. MORGAN. As to the interior points; and that would mean a burden on——

Senator POINDEXTER. If they were the case, there would be no such lowering of rates to bring about all this discrimination and this destruction which you have been describing.

Mr. MORGAN. I am speaking about Texas. I want the committee to bear in mind that I am confining my remarks absolutely to a local proposition. If at the present time the parity between the all-rail lines and boat lines are maintained—in other words, this tariff 2–G which I refer to here, which would be canceled in case this fourth section became rigid, and in canceling it, the rates would be advanced 20 or 25 per cent. That 2–G tariff now is built—or the boat line rates are built—on a parity with that 2–G tariff, say 20 or 25 per cent in favor of the boat line. If this tariff is canceled the boat lines will raise their rates proportionately to the canceling of this to maintain the 20 per cent advance. Say they raise the rates on canned goods 15 cents a hundred; the rates into Texas were made on a combination of locals; therefore, this would penalize Dallas and all interior cities and would not penalize the coast cities any more than it would the interior cities, because the 15 cents would be added to the outbound rate. In other words, our rates from Atlantic seaboard down to Texas points are built on a rate from a certain point in seaboard territory, from New York plus the rate by water, New York to Houston or Galveston, plus the local rate to the point in Texas where it reaches the maximum rate. Therefore, as stated, it would mean an advance, in my opinion, in freight rates to interior cities as well as gulf-port cities.

Senator STANLEY. If they did not make these advances, your argument would fall.

Mr. MORGAN. Yes, sir; if they did not, my argument would fall. That is my prediction, though, and I do not think I am very far wrong in my prediction, either.

Mr. Chairman, in regard to that portion of this bill which would prevent a lower rate—this has never been touched on, and I do not believe there is a semblance of testimony in the record, as far as I have read it, in regard to what I am going to say now. Therefore, I would be glad if particular attention be given to what I am going to say.

In regard to that portion of this bill which would prevent a lower rate to be charged for a greater distance than for a shorter on passenger fares, seems to have been overlooked.

The seriousness of this clause of this bill demands careful thought and consideration. It is my opinion that did the public in general realize the far reaching effects of this clause of this bill, should it become a law, the hotels of Washington, the telegraph lines, the United States mail, would be inadequate to take care of the storm of protests that would be heaped upon you.

If this clause of this bill becomes a law it is good-bye to mileage books, good-bye to summer and winter-tourist tickets, good-bye to labor-convention rates, and special theatrical rates, and all other special rates.

In the cancellation of such rates you discourage tourist travel in America and encourage foreign-tourist travel. You discourage conventions, theaters, athletic meets and baseball. I do not know of anything that could happen to our country that would be so far-reaching in its general effect than the passage of this passenger clause of this proposed act. In my mind it would do away with commuters tickets, which are made at a less rate, mile for mile, than that granted the traveler who goes beyond the commuters' destination.

Senator WATSON. That has an awful sound.

Mr. MORGAN. That is what it will do; it will do away with commuters' tickets.

Senator WATSON. Why?

Mr. MORGAN. Because—I will tell you why: A commuter rate, say, from Philadelphia to a point 20 miles out on a 30-day book is built on a lower rate than the regular mileage scale. Now, if you happen to be a visitor in Philadelphia and want to go to that same point, and make a trip to that same point or make a trip two or three miles of this same point, you pay a higher rate then the commuter does who travels 3 or 4 miles beyond you. Therefore, it would be unlawful for you to use the commuter's book.

Senator STANLEY. The law is law and you can not get away from it. The law would work backwards. You have got the other end of it; the commuter is charged less for the shorter than the longer haul. There is no law against that.

Mr. MORGAN. That is exactly what I am talking about. The commuter is charged less and the commuter could ride 3 miles farther for less than the man who stopped 3 miles this side.

Senator STANLEY. There is nothing in the law which prohibits charging less for a shorter than a longer haul.

Mr. MORGAN. The law says you can not charge more for a shorter haul than for the longer haul.

Senator STANLEY. I have not seen that in the law.

Mr. MORGAN. Does not this bill say you can not charge more for a shorter haul than for a longer haul?

Senator STANLEY. You charge more for a shorter haul than a longer haul both going in the same direction.

Mr. MORGAN. This bill means you can not make a ticket rate from A to C for 40 cents and from A to B for 50 cents, the B rate being intermediate.

Senator STANLEY. That would be a regulation putting everything on an absolute mileage basis, which might be the result of the thing.

Mr. MORGAN. It would be the result of it.

Senator POINDEXTER. The only difference is you could not go fishing at more places.

Mr. MORGAN. You could go fishing on a regular mileage basis. I want to tell you right now, if this bill becomes a law, and I was in Philadelphia and I wanted to go to a point 15 miles out of Philadelphia, and you charged me 25 cents to go to that point, 15 miles out of Philadelphia, and you charged the other man 10 cents to go 20 miles out of Philadelphia, I would file a complaint against the railroad that made that charge and I would sustain it under this bill.

The CHAIRMAN. Has the Interstate Commerce Commission found it necessary to grant relief to the railroads on account of these commuter tickets?

Mr. MORGAN. Yes, sir; they have given permission for special rates; they have to be filed. All special-rate tickets and passenger tickets have to be filed with the Interstate Commerce Commission or the State commissions.

The CHAIRMAN. I know, but has the commission granted the relief from the section?

Mr. MORGAN. They have, and you know when the Government first took over the railroads they refused to recognize the commuters' mileage, and there was a howl went up over this country which shook the earth, almost, and the Government railroads, then under the Director General, granted these commuter mileages.

I want to say this to you, Mr. Chairman and gentlemen, you take a summer tourist rate to, say, Atlantic City. These tourist rates are made to encourage American travel in America and to encourage American people to spend money in America and not to encourage them to go to foreign countries to spend their money.

Senator POINDEXTER. Let me ask you one question. To give a tourist rate to Atlantic City, this bill would only provide that the same tourist rate should be given at at least as low a rate for a shorter distance. What is your objection to that?

Mr. MORGAN. It would mean that this tourist rate must apply to the tourist rate between the point of origin and the point of destination.

Senator POINDEXTER. What is your objection to a man going to an intermediate point, if he wants to go to an intermediate point?

Mr. MORGAN. I have not a bit of objection to it, but I know the railroads are not going to do it, and they will cancel your tourist rates. They have a right to do it. I have no objection to it.

Senator POINDEXTER. What makes you think they would cancel the tourist rate?

Mr. MORGAN. I do not think anything about it; I know they would. That is just a common-sense logical reasoning. They will not pull all of their intermediate passenger rates down to meet the rate to Atlantic City. They would go out of business if they did.

Senator MCLEAN. They would be compelled to do it.

Mr. MORGAN. Sure, they would. That is just common-sense reasoning and that is all that is.

Senator MCLEAN. The passenger business now is conducted at a loss, most of it.

Mr. MORGAN. Yes, sir. I have just a few more points.

Senator POINDEXTER. Just a minute, to correct the record there. I am informed that on all of these tourist rates at the present time, a man can stop at an intermediate point if he wants to. He does not have to stay on the train and go to the end of the line.

Mr. MORGAN. You are informed wrongly to this extent, that the tariffs read this way: That the railroads will permit, according to their own individual rules and regulations, stop-over privileges on a round-trip ticket at intermediate points. They allow stop-overs, and they name the stations at which they allow stop-overs; but there are very few. But they do not allow stop-overs at all towns. I have ridden on them too often, and I know what I am talking about. Where the lines break, say, at St. Louis, the Pennsylvania line and the Iron Mountain line, they do not allow any stop-over at those points at all.

The CHAIRMAN. A man can get off of the train wherever it stops.

Mr. MORGAN. The conductor has got your ticket in his pocket; when you get on the train he gives you a receipt for it and you can not stop off. You have got to get your ticket back from the conductor and he will not give it to you unless the place is the proper place provided by the company to stop. There is no way to make the companies change their rules and regulations along their lines; they are reasonable and they have a right to make those rules; they have the right to say you can not stop off at all if they want to. They have that right.

The CHAIRMAN. Do you mean to say that they have the right to say to a passenger, if the train is standing still, "You can not get off?"

Mr. MORGAN. These tickets are validated with your signature, and you agree to the conditions named on the ticket, and the Supreme Court has held it a penal offense, and people have been sent to the penitentiary, as I know, for violating the rules in respect to that ticket, by selling it. One of the rules of the ticket is you can not transfer or sell it, and it is a penal offense to do it, and you have to sign your name on the back and abide by the rules on the face of the ticket.

Senator POINDEXTER. There has been no ruling of the Supreme Court that if you have a round-trip ticket to Atlantic City you can not get off before you get to Atlantic City, or wherever the train stops.

Mr. MORGAN. As I said, Senator Poindexter, and I presume you know, when you get on the train at St. Louis going to Atlantic City, the conductor takes your ticket up and he puts it in his pocket and gives you a receipt for it.

Senator POINDEXTER. You are talking about a round-trip ticket.

Mr. MORGAN. I am talking about any ticket. A passenger going from St. Louis to Atlantic City——

Senator POINDEXTER. But if you hand him your ticket going to a certain place, then you do not want your ticket any more unless it is a round-trip ticket.

Mr. MORGAN. Sure, you do not, until you get to your destination.

Senator POINDEXTER. Certainly not; that is all this bill requires, that he can go to the nearer point for no greater rate than to the longer point.

Mr. MORGAN. I would not argue this question—I would not take up the time of this committee one minute if I did not know it is a very, very serious and important matter that this committee should give due consideration to, and I know a mileage book which is sold mile for mile at less than a man buys the ticket for, is invalid. I know a clergyman's ticket sold mile for mile less than you would sell to a theatrical man or to a baseball man would not be valid.

Senator POINDEXTER. No; it would not.

Senator STANLEY. Is it possible now to charge more for a longer than a shorter haul on a mileage book?

Mr. MORGAN. Under Government rules and regulations the mileage book and regular passenger fare is exactly the same. Under private control of railroads it has always been, and, in my opinion, it always will be, a $50 mileage book for $50 worth of fares is sold for $40; a $100 mileage book is sold for $80; a $25 mileage book is sold for $20. Therefore, Mr. Senator, a man traveling 25 miles—in other words, a man traveling on a $25 mileage book, he has a thousand mile book, he travels a thousand miles for $20; and I am going to show you it will violate this section. If he travels a thousand miles for $20 and a man following him up buys a ticket and travels 960 miles and pays $25, the man traveling the lesser distance is paying $5 more than the man traveling the greater distance.

Senator POINDEXTER. That is because they have a different kind of ticket. The second man you speak of can buy the same kind of ticket that the first man did if he wants to, and there is no violation of the law that will be established by this bill.

The CHAIRMAN. That is a question of law to be settled.

Mr. MORGAN. Yes, sir; that is a question of law. We will take it, Mr. Chairman, instead of going this 965 miles, that he had no occasion to go beyond 500 miles; then he is paying more for the 500 miles, mile for mile, than the man who goes 1,000 miles pays, mile for mile. Why should a man be required to buy 1,000-mile ticket to equalize his ticket rate with the man who travels 1,000 miles when he only wants to make the 500-mile trip? It is unreasonable to require those things.

The CHAIRMAN. The committee will consider that.

Mr. MORGAN. This is a matter that I testified to when I was here before.

Senator ROBINSON. Mr. Chairman, I would like to ask the witness a question or two.

With respect to the last point you made, namely, that if this bill becomes a law it will prevent the railroads from issuing commuters' tickets, mileage tickets, and tourist ticket, and other similar forms of transportation, if it were desired to do so, that could easily be obvi-

ated by the adoption of a proviso to the effect that the act shall not be construed as applying to that class of transportation?

Mr. MORGAN. Yes, sir.

Senator ROBINSON. So that if the main purposes of the act are necessary to be effectuated, that objection could be easily provided for?

Mr. MORGAN. Yes, sir.

Senator ROBINSON. I was unable to follow you very accurately in your statement—you read it somewhat hurriedly. I want you to give some specific instances of the difference now existing in rates, in the points that you are interested in. Specify a rate which is a good illustration.

Mr. MORGAN. Well, I gave two illustrations here. I could have given a hundred.

Senator ROBINSON. I know you could, but I could not follow you, and I do not think the other members of the committee did.

Mr. MORGAN. I will give it to you again. We will take it on agricultural implements. The present rate is 82½ cents——

Senator ROBINSON. From where?

Mr. MORGAN. From St. Louis; that is an inland point. If this rigid fourth-section law becomes operative——

Senator POINDEXTER. Just there: What is the rate to the nearest seaport?

Senator STANLEY. What is the difference in mileage?

Senator ROBINSON. I want to get the contrast between the seaboard rate and the inland rate, and then I want to get the mileage difference.

Mr. MORGAN. I will give it to you. The present rate from St. Louis to the seaboard is 82½ cents, and the present rate from St. Louis to Dallas, which is an inland town, is 95 cents. If the fourth section became rigid, the Houston rate would be advanced to the 95-cent basis, and that would mean an advance of 12½ cents a hundred, or about $50 a car.

Senator ROBINSON. Wait a minute. How much longer is the haul to Dallas than to Houston?

Mr. MORGAN. If the haul was shorter to Dallas than to Houston, there would be no fourth section violation, but the haul being longer to Houston than to Dallas, there is this fourth section violation.

Senator ROBINSON. That is what I understand. How much longer is the haul to Dallas than to Houston?

Mr. MORGAN. I should say the difference in distance from St. Louis to Dallas, as compared with St. Louis to Houston, would be about 175 miles. My idea along that line, Senator, is it does not make any difference to the Houston merchants if you make the fourth section rigid, but it does make a difference to the St. Louis man, to the Louisville man, and to the Chicago man. He would not sell any more goods.

Senator ROBINSON. You are representing the Houston man. It does not make any difference to the people you represent, but it does make a difference to the other people whom you do not represent.

Mr. MORGAN. I am speaking for this bill, Senator.

Senator ROBINSON. I understand, but what I am trying to get at is, why, if you represent Houston, and it does not make any difference

to Houston, Houston sends you here to protest against the passage of the bill.

Mr. MORGAN. Because, as I stated in the final analysis, when the Chicago man, the Kansas City man, the Louisville man is forced out of this business, the seaboard man becomes acquainted with that fact and he would advance his prices on his goods and penalize us accordingly. That is why we are here. We want that competition.

Mr. CHAIRMAN. In conclusion I will say we are in favor of rail lines meeting water competition under proper regulations administered by the Interstate Commerce Commission.

We are in favor of a reasonable departure from the fourth section to permit out of route or long lines to meet short line competition, thus distributing the traffic so there can be no unreasonable congestion, delays, shortage of equipment to move the vast commerce of our country.

We are in favor of a law requiring physical rail connections between boat lines and rail lines. The failure, in my mind, to have such physical connections is by far the major cause of the liability of boat lines to compete with all-rail lines. It matters not if there is a great disparity in a freight rate in favor of the boat, that advantage is greatly minimized by the cost of drayage from car to boat and boat to car. If physical rail connections were required this very serious handicap the boat lines are now subjected to would be done away with.

We favor departure from the fourth section to permit the granting of summer and winter tourist rates, party rates for conventions, theatrical troops, organized baseball, mileage books, clergy rates, etc., etc.

We feel due regard should be given business enterprise and investments who, taking advantage of the God-given natural advantages of our ports, helped build them to a standard of perfection, invested their all with a reasonable assurance that such natural advantages would always accrue to their investment.

The CHAIRMAN. We will hear Mr. Rich now. Mr. Rich, while the committee does not desire to limit the length of time any witness shall consume, I am sure you understand the necessity of being just as brief as you can be with clearness.

STATEMENT OF EDGAR J. RICH, ATTORNEY AT LAW, BOSTON, MASS.

Mr. RICH. Mr. Chairman and gentlemen, my address is No. 6 Beacon Street, Boston, Mass. I am an attorney at law, engaged in the general practice of law. I represent here the Associated Industries of Massachusetts, which is an organization composed of some 1,200 manufacturers of that State; the Chamber of Commerce of Massachusetts, representing some 60 constituent bodies with a membership of some 22,000. I have also been requested to enter the protest against this bill of the Chamber of Commerce of Rome, N. Y.; also the Chamber of Commerce of Wilmington, Del., and the Manufacturers' Association of Wilmington, Del.; and also enter the protest of the United Shoe Machinery Co., and of the W. H. McElwain Co., and of the Gorton-Pew Fisheries Co., all three of those companies being among the largest companies engaged in their par-

ticular line of industry. It is not my purpose to deal traffic situation. They have been amply developed by mo petent witnesses than I. I desire, however, to deal with fundamental propositions which have been developed in the c of the hearing.

I conceive that no abler presentation has been made of one theory of transportation, and of one theory of general public policy, than that made in the Senate report on this bill last February. I have read that report with the greatest of interest, and I believe that nothing can be added to it in strength in support of one line of public policy. I conceive that this whole question really resolves itself into a conflict between two fundamental ideas; and, as I develop the subject, I think I can show that those ideas are this: Whether, on the one hand, each community shall have whatever benefit it may have, whether each community shall maintain whatever benefit it may have by reason of its location. On the other hand, whether it is the interest of the public generally that there should be competition not only in transportation facilities but competition in industry; and, in an ultimate analysis, it is competition in industry which is more vitally affected by this proposed bill than competition in transportation facilities.

One of the potent arguments which has been developed in the course of this hearing, and is referred to with power in the report of this committee, is the fact that at the present time, under present competitive conditions, there is a great waste of transportation facilities; in other words, that under the present law round-about routes are encouraged. That is true. Under the law, as amended, you will absolutely eliminate that evil so far as it is an evil.

I want to call your attention, however, to the fact that there are no communities—no communities of substantial size in this country—which do not have competitive transportation service to other communities of substantial size, and that in almost every case one line of communication at least is longer than another line. The inevitable result will be that the long line will be obliged to go out of the competitive business and the shipper will be deprived of competitive rates, and that is the situation which pertains more particularly to the Middle West, and, perhaps, to the Northeast and Southeast than to any other parts of the country.

In order to eliminate the evils of wasteful competition you suggest here than you shall kill competition. Now, I conceive that you must eliminate the evils of competition—that is, wasteful competition, by other means than by killing competition. The Interstate Commerce Commission is thoroughly alive to this situation, and in applying the fourth section it has laid down this rule, that, where the route is unreasonably circuitous, it will not permit a departure from the rigid provision of the fourth section. If the law is not sufficient to do away with wasteful competition, then I have no doubt, the law can be made such as to give the commission the power to do away with wasteful competition without the necessity of doing away with competition.

One question which has been raised, and raised with effectiveness—with great effectiveness, in the report of this committee—is the fact that under the law as administered to-day there is the tendency to do away with water competition. There has been some discussion

on that point this morning. Under the law as administered by the Interstate Commerce Commission, the carrier is permitted to make a lower rate to the more distant point, provided it is necessary to meet not merely actual competition, but potential competition, and I am impressed, profoundly impressed, with the arguments that have been made along this line, and I do not believe that this question can be satisfactorily settled until we arrive at some definite conclusion as to whether you want to allow that departure from the fourth section in order to meet potential competition.

Speaking on behalf of the shippers, we do not want actual competition suppressed. The railroads may want to suppress all competition. We do not want to suppress it. We want actual competition to exist. I am not sure, because I have not kept up with recent decisions of the Interstate Commerce Commission, whether to-day the Interstate Commerce Commission permits a departure from the fourth section when there is potential competition. If it does permit that departure, I am not altogether sure whether it is within the law as laid down in the very recent case to which Mr. Chandler referred. If the law to-day does permit a departure where there is potential competition, the law ought to be changed.

In the case of the Skinner & Eddy Corporation *v.* United States of America, decided by the Supreme Court of the United States on May 5, 1919, the court lays down this rule:

> The specific purpose of the last paragraph of section 4 is to insure and preserve water competition, to prevent competition that kills. A reduction made under the authority of a fourth section order after full hearing, must have been necessary in order to preserve competition between the rail and the water carrier.

Now, I submit whatever the law may have been before that decision was made, that that probably expresses the law to-day. To be sure, it is in the nature of a dictum, but if that is not the law it ought to be the law, and I am not here to advocate a right to depart from the fourth section when there is merely potential competition. If the law to-day permits departures under these cimcumstances——

Senator UNDERWOOD. May I ask you a question?

Mr. RICH. Just one moment Senator.

If the law to-day permits departures under those circumstances, I would suggest, for the consideration of the committee, an amendment of the law along these lines—and it is an amendment which ought to be, of course, very carefully considered by the Interstate Commerce Commission, to whom I have not submitted it: Add to section 4 at the seventh line from the bottom of the official copy of the act these words:

Provided further—

You have in mind, of course, what the language is before this—

> that the rates for the longer distance authorized by the commission shall not be less than is necessary to preserve such actual competition at the more distant points as the commission may find to be in the public interest.

If that is not the law, it ought to be the law; and if there is any doubt about the law I think Congress should make it plain. I am not critisizing the Interstate Commerce Commission in applying in some cases a different rule, for the reason that Congress gave no rule to the Interstate Commerce Commission and it adopted a rule which I think has worked out reasonably well; but if in the future,

when it becomes necessary to develop our merchant marine, as the Senator from Washington has so forcibly shown in his report, it may be necessary that Congress should expressly state that actual competition, or such actual competition as is in the public interest, shall be preserved. Let me illustrate that by reference to the case which has been discussed so often before this committee, and that is the transportation between New York and Memphis. At the present time, you have the all-rail route; you have the route by water to Savannah, and thence by rail to Memphis. It seems to me that it is in the interest of all concerned that those competitive routes should be preserved, and under this proposed bill the route via the water-and-rail route will be entirely eliminated. The question has arisen as to whether there should not be a route via the Mississippi River, an all-water route. I do not know whether there should be or not. Perhaps that is too circuitous; perhaps that is not effective. Leave it to the Interstate Commerce Commission to say what actual competition is in the public interest.

A third reason which has been advanced in favor of this proposed bill, and which has been the burden of the remarks of the very able witnesses from the intermountain territory, is that by reason of permitting a departure in the case of the fourth section at competitive points, an additional burden is thrown on the noncompetitive points. I can not conceive that that argument would be persuasive to anyone who has read the extremely able testimony of Mr. Spence. It seems to me he has developed with completeness and fullness the economic theory, but if you will permit me to refer to one or two illustrations, I think you will see that this principle is applicable—this economic principle is applicable in all lines of transportation and industry.

For instance, I have a little shack in the mountains in a little community where there are comparatively few families. An enterprising farmer, having water power suggested that he would develop an electric light plant. We said we would take the electric current. He figured the thing out and said it would cost us 50 cents a kilowatt. We said we could not take it; we preferred to use candles. Then he went around to a man who had a sawmill and finally came to a trade with the sawmill owner that he would furnish this same current for 3 cents a kilowatt; then he came around to us and said, "We will reduce your rate to 20 cents a kilowatt; will you take it? We said we would. Was there discrimination? Yes. Was there unjust discrimination? No. We got the service at a reasonable price which we could not have obtained if the law had prevented any discrimination.

Senator POINDEXTER. But if you had been running a sawmill you could not have operated on that discrimination.

Mr. RICH. We could not operate on the 20-cent rate.

Senator POINDEXTER. As against the 3-cent rate.

Mr. RICH. No; we could not have operated on any rate except a rate not more than 3 cents, and that is the reason. The same principle applies to everything. Go to the railroads, for instance. It is the custom of railroads serving summer resorts to give excursion rates, or week-end rates. Up in our corner of the country we have some little mountains. The White Mountains are pretty small compared with your mountains elsewhere. I believe there is a hill in the

city of Denver that is as high as Mt. Washington. But those mountains are very beautiful in the fall on account of the autumn foliage and the railroads have been in the habit of making rates which are half the regular rates. They get hundreds of thousands of people on those half-rates to see these beautiful mountains. They will not get 10 per cent of that number if they charge the regular rate. Of course, those rates are limited to a few days. I go to my summer home on Friday and pay $5. A man sitting next to me gets one of those excursion tickets and pays $2.50. Am I discriminated against? Yes. Am I unjustly discriminated against? No.

The CHAIRMAN. Mr. Rich, the latter, I think, is a matter that could easily be accommodated, but you have touched the real point—the instance of the route between New England and the mountains, or any point in the mountains. Now, suppose a part water route and a part land route between the east and Memphis would require a rate of $3 a ton or $5 a ton or $10 a ton, in order to return to the carrier or carriers a fair and reasonable return for the capital invested—and that is about the best test for a reasonable rate—and suppose the land route, the railway, could not meet that rate without loss, should they meet it?

Mr. RICH. No, sir.

The CHAIRMAN. Why not, if competition must be preserved?

Mr. RICH. There must be a limit to competition; there must be a law prohibiting destructive competition. There must be a law which would prevent the rail carrier from carrying property at an actual loss because that loss is thrown upon other noncompetitive traffic, and that I conceive is the reason why a restraining hand should be placed upon the rail carrier. Most of us who have been in the transportation business know that a traffic manager is seeking to get traffic at any price. He simply looks at the increase in the gross and does not know much about what the cost is, and there has been just complaint in the past that the traffic manager has departed from all economic principles and all sound railroad principles by getting business which does not turn over a net revenue.

The CHAIRMAN. What do you mean by cost?

Mr. RICH. In reference to this matter of actual additional cost that the carrier incurs in transportating that traffic which they could not get but for the low rate, and to be more specific, I refer to the extra cost of wages and of fuel and such reasonable wear and tear as may be incurred in connection with additional transportation. It is not difficult to draw a general line between the haulage cost and the constant cost, but, generally speaking, the economists tell us, and those who have studied the question, that 65 per cent of the costs of the railroad are fixed and go on regardless of the amount of traffic which is carried.

Let me illustrate your question, Mr. Chairman, by reference to this summer excursion business. I have no doubt that every day in the fall, under private management, not under Government operation, those excursion trains carry passengers which pay $2,000 a train, and the only extra cost the railroad was put to was the cost of fuel and the cost of wages of the men running those trains, which would not be $200.

The CHAIRMAN. Please adhere to the water competition between the east and Memphis, because that is a concrete example. You as-

sume—and this is a point that has always bothered me—that the intermediate business is the normal business, and if the terminal business where they meet the water rate is to be done by the railroad at all, it is simply an added business, and whatever is required to be raised by the railroad company in order to maintain itself can be raised by doing business at the terminal point at cost—I suppose you mean the actual cost of transporting the extra distance—and that the railroad company must raise its requisite revenues, the remainder of them, from the intermediate point. That is what you mean by cost. But if you add as part of the cost of maintaining and operating a railroad, the capital charge as well as the cost of doing that particular service, then your theory fails, does it not?

Mr. RICH. It seems to me, Mr. Chairman, that this is the real situation: Supposing for the first time a railroad was put across the continent and that the rates are adjusted on the mileage basis, which is the only basis upon which you can adjust rates under a noncompetitive system, I believe——

The CHAIRMAN. I do not agree to that.

Mr. RICH. Perhaps that should need qualification. I ought not perhaps to have stated that as a definite conclusion; but supposing that the rates had been adjusted so that no intermediate rates are higher than the terminal rates, and that they had been graded up in a general way so that the rates expressed the cost of service; or, if you please, let us assume that any of the rates between the intermountain territory and the Pacific coast are the same. Now, the rates, we will say, have been so adjusted that the railroad has a fair net return, and everything goes all right. Then a water line comes in and reduces its rates so that it gets, we will say, all the competitive business, which may be 25 per cent of the whole business. Now, what happens? The railroad keeps up its rates. It does not yield to the competitive impulse. Its revenues are reduced 25 per cent—gross revenues; its net revenues are reduced a certain amount. The board of directors say, "We will not make any reduction to meet that competition, but we have got to have 15 per cent more revenue." How do you get it? By increasing all the rates all along the line. That is the inevitable result of preventing the railroad from meeting the competitive situation. You can not get away from it.

Now, supposing that the railroad directors, instead of increasing the rate, instead of refusing to meet competition, do meet it and reduce their rates to a point necessary to meet it and to a point which gives them some net revenue over and above the haulage cost. At once they get some net revenue. They may have to raise the rate a little in order to get an adequate revenue, but they do not have to place that burden upon the intermediate point.

That principle applies to transportation, wherever you have competition. Now, it may not be right—that theory of competition may not be right. It may be that the proper policy is to do away with competition, but up to the present time it has been the policy of Congress and the policy of this country to preserve reasonable competition in every way possible in transportation service. And in industry the policy of this country has been to preserve competition to an even greater extent to prevent such consolidations as would do away with competition.

If you destroy competition—and you will destroy it under this act—you are going back to a situation, or perhaps you are advancing to a situation where every community will have the advantage of its peculiar location, I will admit, so far as they are inland communities, and that is a policy which Congress can adopt. But permit me, for a moment, to illustrate this, not by transportation, but by industrial competition—market competition, so-called. This country has been built up on the theory of competition in transportation service, on the theory of competition in industry. It may be a wrong policy. It may be that we are tending to get away from competition; we have certainly been getting away from it during the war. Perhaps you ought to perpetuate that tendency and extend it, but if you want to get back to conditions when this country was built up, you must preserve competition. It may be wrong to permit the sugar growers in Wyoming to compete with the sugar growers in Louisiana, but we do permit it, and it is permitted largely through the adjustment of rates.

It may be wrong for the paper industries of New England to compete in the Chicago market with the paper industries of Michigan, but we do it, and it is done because of competition in transportation. The minute you disturb that situation you establish a new policy. It may be right. You are here to establish a policy which is best for the country, but you will uproot the industrial system of this country.

Senator POINDEXTER. Let me ask you one question at this point. Do you want to give, according to that argument, the sugar growers of Wyoming—if there are any there; I do not know whether there are or not, but suppose there are—the benefit of water competition, although they are 2,000 miles from navigable water and situated on a plateau 8,000 feet high? Now, if you give them that benefit, by what right can you deny it to every other community in the United States?

Mr. RICH. I do not know whether the rates from Wyoming are greater or less than the rates from Louisiana.

Senator POINDEXTER. I do not, either; but I am just taking your illustration.

Mr. RICH. I will assume that in order to put sugar into the Chicago market, irrespective of the competition of transportation, it is necessary to give a lower rate than the rate from Louisiana to Chicago.

Senator UNDERWOOD. Mr. Rich, I think you are entirely wrong about your facts. I think the demonstration shows conclusively that the product, not of Wyoming, but of Colorado, where they do make beet sugar, can always go into Chicago and drive the Eastern shipper out. It is always that sugar that goes in and drives them out when they have their sugar on the market. The time the Eastern seaboard sugar goes into Chicago is when the mountain-range sugar, or Pacific Coast sugar, is exhausted—the beet sugar is exhausted in the market—to a large extent.

Mr. RICH. I do not know the facts; I simply used that as an illustration of meeting competition. Let us take the matter that I know about—I ought to have done it in the first place—and that is the competition of New England paper in Chicago, as compared with paper from Michigan. It may be wrong, that New England, being so far away, should be given such a rate as to entitle it to compete, but

the inevitable effect of this rule is to prevent that competition, and every competition of that kind.

Now, the chairman of this committee has asked some very pertinent questions along this line—why should the intermountain region be placed at a disadvantage to the coast, and why should the rate be raised?

The CHAIRMAN. Mr. Rich, the chair will take the liberty at this point of asking you to suspend a moment. There is a gentleman in the room who is compelled to leave the city this morning, and he desires the opportunity to be heard for five minutes.

Mr. RICH. I shall be glad to do so, Mr. Chairman.

STATEMENT OF BENJAMIN GILHAM, TRAFFIC MANAGER, MACON, GA., CHAMBER OF COMMERCE.

Mr. GILHAM. Mr. Chairman and members of the committee, I have spent practically all my life in engineering, contracting, operating, accounting, and making rates for railroads. At the present time I am traffic manager for the Macon Chamber of Commerce, incidentally part of the United States Railroad Administration.

I believe that in regard to transportation, and the same is true as to jurisprudence, there must necessarily be a feature of what we call equity, or as applied to transportation, there must be something left discretionary with the powers to whom it is left to enforce the laws.

As enacted, the fourth section of the act to regulate commerce was found to be a little weak and deficient. The amendment of 1910, I believe, absolutely closed the door to any other effort to perfect that law, for conditions and circumstances will vary just according to the way nature has planned. To know why is not our business. We simply have to meet it. As a matter of fact, I realize that there is a part of the country, called the intermountain territory, that is at some disadvantage; it is a particular section of the country doubtless needing some special treatment, and ought to have it.

As to the Southeast—and I am speaking now for Macon—that question, so far as the fourth section is concerned, has been carefully considered by the Interstate Commerce Commission, by the shippers, under contentions put forth by the opposing parties, and as all of you know has been definitely settled so far as the main features are concerned, although it should, perhaps, be conceded that there are some imperfections still existing with regard to the enforcement of that law. As a matter of fact, we all know that the rates from Boston to Macon are not made by the rail lines, but are made by the coastwise steamship people and the rail line must meet them in order to get the business.

From the West; that is, from Ohio and the Mississippi River crossings, and from beyond, our rates are made by market competition, which is to say our rates at Macon are influenced by the rates to Savannah, Ga., via rail-and-water routes east, and consequently the rail lines from Nebraska and Washington, where we do draw a great many things, particularly alfalfa and things used in the manufacture of articles at Macon, we have to pay a higher rate, perhaps, than we would otherwise.

These things are forced, as we believe, by natural conditions, and the railroads, if they can, should be allowed to compete from the West to meet the conditions from the East.

I think that the utterance by Justice Brandeis in the Skinner and Eddy case, which was referred to here this morning ought to be conclusive with respect to the flexibility of the fourth section. You will bear in mind, gentlemen, that the able Justice, in announcing the opinion of the Court in that case—and I understand all the members of the Court were agreed—did not say it was desirable that the Interstate Commerce Commission should be given the right to say whether or not the railroads should charge a less rate for a longer haul that for a shorter; he did not say that. He did not say that it was lawful under the existing acts that they should, but it must be remembered that he said it is necessary that that be done, and those of us who have had a good many years of experience in the interest of both railroads and shippers, meet on this one proposition that no ironclad rule, or inflexible law with respect to this part of the transportation, can be enforced without bringing more discrimination than it undertakes to prevent. It may seem rather strange that a shipper's representative should so completely agree with the representatives from what it regarded the opposing interests, but I want to say to you that I think the utterance of Mr. Alfred Thom, in the document which he has doubtless filed with this committee, is the expression of the shippers of the Southeast, and I think, perhaps, Mr. Thom, while that case is not involved here, will have to admit that for the same reasons as stated in the pamphlet, or his argument, or discussion, that a uniform mileage scale of rates is an impossibility, or at least impracticable—I think the proposed consolidated classification is going to turn out to be a perfect failure if that should be put into the adjustment of rates in this country, because you had just as well ask your tailor to make a suit of clothes for you that would be comfortable in all climates as to ask that transportation laws be made uniform.

I thank you, gentlemen.

Senator POINDEXTER. Just one moment. You represent Macon?

Mr. GILHAM. Yes, sir.

Senator POINDEXTER. Macon now has the benefit of a low rate?

Mr. GILHAM. A slightly depressed rate.

Senator POINDEXTER. A slightly depressed rate.

Mr. GILHAM. Yes, sir—water.

Senator POINDEXTER. Not nearly as much depressed as the people of the intermediate points are.

But your object is to keep the benefit of these low rates, is it not?

Mr. GILHAM. I am glad you asked me that question, because it brings out a thing that I think will prove interesting to all the members of the committee, and that is this: The rate at Macon was brought about by water competition. As you know, we have a navigable river running right into the very center, the geographical center of the State of Georgia. The railroads, long before there was any restriction whatever placed on them by any act of Congress, had to lower their rates. In fact they took what I think was the proper step—and it is important for you to know this—they held a convention of stockholders, and the stockholders absolutely de-

serted the railroads and said, "We are going to stand by the river; that is the cheapest way we can get freight."

Now, out of that circumstance the rate has continued low there. But do not forget—and this answers your question—that the fact that competition at Macon has been forced by all water rates to Savannah and to Brunswick—or China, as far as that is concerned—brings about this sort of condition due to the arrangement of the carriers. At Atlanta, which is 100 miles distant, you might say, it is really 88 miles; Athens, which is not on a navigable river, and many other points—Madison—there, under the fourth section the shippers all obtain lower rates than could possibly be gotten by any other means on earth, due to the situation in Macon, because the Interstate Commerce Commission says that they could not immediately throw up the rates to the peak when there was a competing market so near by engaged in practically the same line of business, such as jobbing and manufacturing, so near by that it would have a great preponderance of advantage.

The CHAIRMAN. The committee will have to adjourn now.

(Accordingly, at 12 o'clock noon, the committee adjourned until to-morrow, Friday, June 13, 1919, at 10 o'clock a. m.)

LONG AND SHORT HAUL BY COMMON CARRIERS.

FRIDAY, JUNE 13, 1919.

UNITED STATES SENATE,
COMMITTEE ON INTERSTATE COMMERCE,
Washington, D. C.

The committee met at 10 o'clock a. m., pursuant to adjournment, at the room of the committee, 410 Senate Office Building, Senator Albert B. Cummins (chairman) presiding.

The CHAIRMAN. Mr. Rich, you may proceed with your statement.

STATEMENT OF MR. EDGAR J. RICH—Resumed.

Mr. RICH. Mr. Chairman, I had devoted my remarks yesterday largely to the consideration of fundamental principles, and to the consideration of a national policy as distinguished from the consideration of sectional interests, for I conceive the problem is fundamentally a national problem. It was suggested that I devote some time, however, to a discussion of the peculiar intermountain situation, but before referring to that I would like briefly to refer to a certain condition which exists in New England, which has not as yet been touched upon.

The State of Maine is situated, as we all know, in the extreme northeastern part of this country. It is exceptionlly favored in its water competition to Boston and to other Atlantic points. It is a State that is fairly bursting with industrial possibilities. It is more like some of the interior Western States in that particular than any State in the Union. Moreover, it can probably come nearer supplying its own demands in its production than any State in the Union. A system of rates exists in Maine which is only typical of the situation which exists elsewhere. On account of the water competition the rates on fruits, vegetables, fish, and other commodities are from 10 to 15 or 20 per cent less to Boston than to intermediate points on the railroad. The railroads are absolutely forced to make lower rates to Boston, and the same thing applies to New York and other places where they have water traffic, because water traffic is probably equally good, or the water service, I should say, is equally good for shippers as the rail service, and I imagine the deliveries are usually made quicker. The elimination of those distance rates to Boston, in other words, the increasing of those rates to the level of intermediate rates, will simply result in a pro rata increase in the water rates, and the shippers and consumers instead of paying 40 cents a hundred pounds on many of those commodities, as now, will have to pay 60 or 65 cents on the water line because the water lines will follow the rail rates up to the rates the railroads fix.

You thus have another instance of the cost of living mounting up. There is another feature——

The CHAIRMAN. Just one moment. How far back from Boston are the rates higher from Maine than they are to intermediate points?

Mr. RICH. About 30 miles.

Senator POINDEXTER. If those intermediate points can pay these high rates and live, why can not Boston pay them and live?

Mr. RICH. Boston can pay them and can live.

Senator POINDEXTER. Why should you give the lower rate to Boston on the railroad, and charge its neighboring towns a higher rate for less service?

Mr. RICH. The railroad can not afford to reduce its intermediate rates. It will lose a large amount of revenue in receipts. It can afford, in competing with the water lines, to fix those rates to Boston at a lower rate than at intermediate points, because they get some net revenue which they otherwise would not get. It is fundamental and is simply illustrative of what I tried to develop yesterday.

Now, there is one feature which has been touched upon, but perhaps not sufficiently. It is often important that a shipper should make delivery at destination on one line or on another line. Industries, where you have competing rates, are located on both lines. Many industries are located on round-about lines. It is of great importance to the shipper that he should be able to make delivery on any line at equal rates, and that is one of the controlling reasons why the shippers desire a choice of routes. The situation is illustated by the Maine situation. Maine has direct rail routes to New York; it also has a route to Albany and down the west side of the Hudson. Now, the purpose of this longer route is to give deliveries where the consignees want them, and it is a privilege which exists at every competitive point, and the elimination of the competitive rail rates will result not in depriving those consignees of delivery, but in compelling them to pay a switching or haulage charge to reach other industies or other consuming points.

The amount of this intermountain business, I think, has been stated by some witnesses to be less than 3,000,000 tons of traffic which bears the so-called discriminatory rates. Now, to illustrate how inconsequential that is in comparison with all the traffic of the country, I may say that in the paper and pulp industry in New England, which is very largely located in Maine, the traffic of that one industry is almost as much as all of that traffic to the intermountain region.

Let me, before getting to the intermountain situation, refer for a moment to the situation in Texas. When one goes to Houston and stands before that tablet which says "Here was founded the Republic of Texas," he becomes impressed with the size and power of that great State, and when he attempts to travel from one part of that State to a remote part of the State he finds that he has to travel almost as far as it is from Boston to Chicago, and he is still more impressed with the greatness of that empire. If there was ever a State which had a justification for establishing a public policy which would develop all lines of industry, Texas had that justification, and its State commission, as the committee so well knows, for years adjusted its State rates with the avowed purpose of developing and encouraging the industrial growth of the State.

This committee had the extraordinary spectacle here last February of having a representative from Texas, who was sent here by a convention composed of every industrial, commercial, and agricultural organization in the State, with one exception, with instructions to present to this committee certain theories, certain ideas which they had with reference to the return of the railroads. Most of those ideas looked to getting away from the provincial development to a participation in the national development, and you will recall that in particular that representative of all those interests, in polite terms, repudiated the theory of the Texas State Commission in fixing the State rates, and asked that this Congress give to the Interstate Commerce Commission power not only over interstate rates, but over intrastate rates.

I conceive that that is illustrative of the situation to-day prevailing in the intermountain region. The report of this committee sets forth with consummate ability the proposition that the intermountain territory ought to be permitted to develop industry within its limits. No more powerful argument has ever been made in support of this rigid rule of law. I can conceive, however, that this would be the situation if we had this rigid rule of law. The railroads could not afford to reduce the intermediate rates if compelled to make the remote rates equal to the intermediate rates. They must necessarily go out, to a large extent, of the competitive ocean business. One result follows immediately, and that is why the steamship lines are here in support of this bill. The steamship lines will raise their rates to a point just enough below the rail rates to get the business. That is the first effect. Now, the second effect is this—and here is where we come to a situation which causes this unrest in the intermountain States: The dealers, jobbers, and middle men in those intermountain States see cars loaded with the same kind of traffic which they are buying going through their States 400 miles beyond and paying a less rate than they pay to those intermediate points, and it is a situation which it is exceedingly difficult to meet, and which can only be justified by such consideration of economic conditions as I attempted yesterday to lay before you.

I conceive that if the rates are met, the jobber, instead of having to pay a higher rate than his competitors on the coast, will find himself in a position where he can compete with this intermountain territory to better advantage than he can to-day, and I conceive, Mr. Chairman, that the jobbing interests of the intermountain States will be benefited by this bill, and I conceive, as I have said, that the water interests will be benefited. But now, how about the industrial life of the intermountain region? The intermountain region asks for an opportunity to develop its industrial life. When one looks at the intermountain region, however, he finds a region rich in mines, rich in herds, rich in flocks, rich in soil, surpassing, in the combination of those industries, any other section of the country. It seems as if they ought to be willing to allow the other sections of the country to produce the manufactured commodities which they desire. Their outdoor occupations have produced a virile type of man. Why do they want to dilute their citizenship by the dilution which comes wherever you develop industry and manufacture? But aside from that, will they develop their manufacturing industries if they get this rigid rule of law?

I have freely stated that this rigid rule of law is for the benefit of the jobbers of this region and for the water lines, but I conceive that it is not for the benefit of the industrial development of that section, and for this reason: Repeating again what I stated, what has been said by others, the railroads, if compelled to lose competitive business, can not decrease their mountain rates. If they lose too much of that business they have got to increase those rates. Now, if those rates remain as they are, nothing is gained in the way of development of manufactures, and if they increase the rates much is lost because, aside from wool and some other raw materials, the intermountain territory has got to go to other parts of the country for its raw materials, and has got to go to other parts of the country for markets for almost all of what it might manufacture; so I conceive that as far as the intermountain situation is concerned, the only people that will gain are the jobbers.

Just a word in closing. This subject has been discussed in Congress for 35 years. There is no doubt that this alleged unjust discrimination was one of the impelling causes of the interstate commerce act, and there is no doubt that the fourth section was the result of more or less compromise between two different points of views.

When than fourth section was enacted it was interpreted in the very first decision of the Interstate Commerce Commission in a great opinion by Judge Cooley justifying from an economic point of view—the principle that so long as you had competition, so long as competition exists, there must be a departure from the rigid rule.

For 10 years the Interstate Commerce Commission adopted the interpretation contended for by the Intermountain States, and attempted to prevent any departure from the rigid rule; in the face of the economic considerations urged by Judge Cooley, when on the Commission. It was not until the Supreme Court of the United States held that competition was a justification for a departure that the Interstate Commerce Commission began really to understand the economic considerations underlying the administration of this law.

Senator POINDEXTER. The Supreme Court in that decision did not undertake to lay down any policy. My understanding is that they simply held that the Interstate Commerce Commission had the power, if it saw fit to do so, under the law.

Mr. RICH. Yes; it was not a question of policy; it was a question of the interpretation of the law. During all that time agitation went on in Congress, in one session or another, for a change in the law, and whenever this proposition has been submitted to analysis—critical analysis—the Congress of the United States has decided that it does not want to reverse the conditions upon which industry was built up in the United States.

Permit me just to refer to those interests which are opposed to this law. This Congress can legislate, and must legislate, in the interest of the people as a whole. They have the right to ignore any expert advice which may be offered.

But may I call your attention to the expert advice which has been offered you in these hearings in oppositon to the law? In the first place, the railroads themselves, intimately connected with traffic conditions, are opposed to it. That does not mean much, because they are more or less selfish interests, but their selfish interests are to

be considered, and when you consider that the shippers of this country are a hundred times more interested in railroad transportation than they were in water transportation, because the railroads reach hundreds more points of destination by rail than they do by water, it is a point to receive careful consideration.

Then, you have had before you, with very few exceptions, industrial traffic representatives from almost every section of the country, with sporadic exceptions, urging you not to pass this bill. You have the expert traffic advisers of the industries of this country, and thirdly, you have the advice of the economists, and I believe with but one exception, so far as I recall, the economists of this country justified under competitive conditions a departure from the strict rule of the section. Then you have, more important than that, the present Interstate Commerce Commission, which has studied this question for years and years, after having passed through a period of doubt and uncertainty, finally coming out unequivocally in opposition to this law. And as against this, as I have said, you have simply the intermountain interests and the steamship interests, with a few men in opposition from other sections of the country.

This country has been built up under this theory: That the producer shall have the greatest possible range of markets; that the consumer shall have the greatest possible competition. If that policy is not right, then you can enact this law and you can divide this country up to some extent into industrial zones, and you can make Texas sufficient unto itself; you can make Maine sufficient unto itself; Massachusetts may not be sufficient unto itself; you can make the intermountain region, perhaps, sufficient unto itself, but I doubt it; you can make the great West sufficient unto itself, but I have never heard anyone, however extreme, advocate that the protective principle should be applied to industries within the limits of our country.

I thank you, Mr. Chairman and gentlemen.

The CHAIRMAN. Senator Poindexter, have you any questions to ask Mr. Rich?

Senator POINDEXTER. No; I think not, Mr. Chairman.

STATEMENT OF MR. O. P. GOTHLIN, OF INDIANA.

The CHAIRMAN. Will you please state your name and relation to this subject, and then just give us your statement in your own way?

Mr. GOTHLIN. Mr. Chairman and gentl men of the committee, I represent here no locality and no commission; I am merely here to voice my own personal views, but in the broader sense I fervently believe that in advocating the enactment of this bill I am advocating the best interests of the whole country.

Senator POINDEXTER. Have you any position now in connection with traffic?

Mr. GOTHLIN. Yes, sir.

Senator POINDEXTER. What is it?

Mr. GOTHLIN. I am, at the present time, the chief of the traffic bur au for the Indiana Railroad Commission and Public Service Commission.

Senator POINDEXTER. The State commission?

Mr. GOTHLIN. The Public Service Commission of Indiana. I am chief of the tariff bureau for that commission.

Senator POINDEXTER. What other positions have you occupied in connection with traffic or rates?

Mr. GOTHLIN. For a number of years I was traveling freight agent—general agent of various railroads, particularly western roads. I was commercial traffic manager at one time for some years at two different times, for large commercial interests. I was for seven years State commissioner of the State of Ohio, and in 1913 I was the president of the National Association of Railroad Commissioners, and my views are based upon my experience, which, I think, has been rather large and complete.

Now, Mr. Chairman, in order that I might not ramble and waste your time I have reduced what I have to say to writing, and have applied the interpretation of the word "condense" to the very limit, so my statement will be quite brief.

As I understand it the single question before the committee is the advisability of amending the fourth section so as to make the long-and-short-haul provision absolute. In my younger days I was a traveling freight agent, and in that capacity necessarily familiar with freight rates. I gradually became impressed with the sentiment that existing rates adjustments were pregnant with injustice; but, being merely an employee in a very humble capacity, I could perceive no remedy.

When the act to regulate commerce came up in Congress I hoped for reform, especially for a clear-cut, effective long and short haul provision, and when the act became law I thought my hopes were realized. But I was doomed to disappointment. The Alabama Midland and kindred cases emasculated the provision. Allow me to call attention to the dissenting opinion of Justice Harlan in the Alabama Midland case. The bearing that has on the question before this committe is this: Had Justice Harlan's views prevailed, the original fourth section would have been absolute, and the pending bill unnecessary. The opinion of so great a jurist should have weight.

I wish to read a short paragraph from the majority opinion in that case. I quote from Interstate Commerce Commission *v.* Alabama Midland Railway Co. et al (168 U. S. 414), decided November 8, 1897.

> When the rates to Montgomery were higher a few years ago, than now, actual, active, water line competition by the river came in, and the rates were reduced to the level of the lowest practicable paying water rates, and the volume of carriage by the river is now comparatively small.
>
> I dissent from the opinion and judgment in this case. Taken in connection with other decisions defining the power of the Interstate Commerce Commission, the present decision, it seems to me, goes far to make that commission a useless body for all practical purposes, and to defeat many of the important objects designed to be accomplished by the various enactments of Congress relating to interstate commerce. The commission was established to protect against the improper practices of transportation companies engaged in commerce among the several States. It has been left, it is true, with power to make reports, and to issue protests. But it has been shorn, by judicial interpretation, of authority to do anything of an effective character. It is denied many of the powers which, to my judgment, were intended to be conferred upon it. Besides, the acts of Congress are now so construed as to place communities on the lines of interstate commerce at the mercy of competing railroad companies engaged in such commerce. The judgment in this case, if I do not misapprehend its scope and effect, proceeds upon the ground that railroad companies, when competitors for interstate business at certain points may, in order to secure traffic for and at those points, establish rates that will enable

them to accomplish that result, although such rates may discriminate against intermediate points. Under such an interpretation of the statutes in question they may well be regarded as recognizing the authority of competing railroad companies engaged in interstate commerce—when their interests will be subserved thereby—to build up favorite centers of population at the expense of the business of the country at large. I can not believe that Congress intended any such result. nor do I think that its enactment, properly interpretated, would lead to such a result. (Mr. Justice Harlan.)

That sound like an obituary in memoriam of an enterprise that had a right to live, killed by unfair means. By the expedient of applying rates unduly low the water carriage was driven out, and the rail carriers permitted to recoup by the imposition of excessive rates in unprotected intermediate territory.

When the fourth section was amended in 1910 I again had hopes which were unrealized. The words "substantially similar conditions and circumstances" were omitted, but two provisors were added. One afforded a home of refuge for fourth section violators, in that by the simple expedient of filing with the Interstate Commerce Commission an application for relief they could continue the violations practically indefinitely. In 52 I. C. C. 26 the commission said:

Carriers will be expected to see that such violations are eliminated, or have been protected by proper application to the commission.

Note the language "violations protected," and this in 1914, four year after the amendment was enacted.

Senator POINDEXTER. By simply filing an application?

Mr. GOTHLIN. By simply filing an application. And these application protections gave immunity for many years later. Is it any wonder that those who desire real regulation are asking you for an absolute provision?

The other provision conferred on the Interstate Commerce Commission in special cases to authorize carriers to impose higher rates to intermediate than to farther points. I had no apprehensions as to the provision. In common with the public generally I thought this authority would only be accorded in rare cases where conditions were very peculiar and unusual. It was generally assumed I take it. that Congress by amending the fourth section had intended to relieve the commission of the handicap to regulation imposed by the decisions in the Alabama Midland and kindred cases; that the doctrine there declared of justifying higher charges to intermediate points by competition at the farther point had been annulled by the amendment. But, apparently, the commission do not so understand; for they have gone on right along according the right to impose higher rates on intermediate territory, when in their judgment there was competition at the farther point, actual and in some cases potential.

In the commodities cases decided January 29, 1915, the commission finds the opening of the Panama Canal a reason for allowing low rates to be made to Pacific coast terminals and higher rates maintained to intermediate points. The exact opposite is true. The canal was constructed for the purpose of encouraging the development of water carriage between the Atlantic and Pacific coasts. Authorizing the carriers to meet this competition by the expedient of reducing charges to the ports to a basis lower than to intermediate points, directly antagonizes the effort and intent of the Government.

The Nation expended millions in the construction of the canal, and the purpose for which the millions were expended is defeated by Governmental action. The same practices have eliminated most of the river and canal traffic throughout this country. Millions have been spent on the Mississippi River and tributaries with what result, and why? Had not the rail carriers in the past been allowed to make to water-competing points rates unduly low and recoup by rates unduly high to unprotected intermediate territory, the Mississippi River would to-day be a teeming artery of commerce to the immeasurable benefit of the whole country.

Now, I want to say something that relates to me very closely, because I am an Ohio man originally. In the early days of Ohio, when the population was comparatively small and the wealth necessarily limited, that State exhibited a most remarkable spirit of enterprise; it constructed a gridiron of canals over the State. That was nearly 100 years ago. Later, when railroad competition began to develop, a very far-seeing legislature enacted an absolute long and short haul law for the very purpose of protecting those canals, but it was always a dead letter, and the canals have been absolutely killed by rail competition.

Everywhere throughout the State—I am speaking now of times past—where there was any chance for canal traffic at all, rates were made that were absolutely not only noncompensatory, but rates that paid nothing whatever—less than cost. To-day Ohio has a system of ditches with no traffic going into disuse—inocuous desuetude. Had that absolute fourth section incorporated in the Ohio code in the fifties, for the purpose of protecting these canals, been enforced, to-day Ohio would have an adequate canal system that would have been of immense benefit in the past few years when the rail lines have been falling down and been unable to carry the traffic.

We have paid a heavy penalty for unwisdom in the past. When in recent years the rail systems broke under the strain and were unable to meet the increasing demands we had no water transportation service in reserve. It was extinct. The losses of the past few years because of the inability of rail carriers to meet transportation needs are beyond computation. Had we safeguarded and fostered water carriage by according it due legal protection it would have been available in the crisis.

Last fall in a conference at Chicago with several committees of the Railroad Administration the question of depressed rates to meet water competition came up incidentally. Not one of the 12 or 15 railroad officials present dared to defend that policy. They were too keenly acute of their inability to meet the demands of commerce.

They could not consistently advocate reduced rates to secure tonnage when they were already congested. Formerly a period of car famine was abnormal—of recent years that situation may be said to be normal and a period of car plentitude abnormal. Allow water carriage to develop naturally, unhampered by artificial and unfair rail competition, and both agencies of transportation will be available to adequately meet the demands as they arise.

It is too much to expect capital to invest in water lines when the outlook is uncertain; when rail competitors may be authorized to establish rates that will reduce water tonnage to a degree that will dissipate the hope of profit if not entail actual loss. The inactment into

law of the amendment here under consideration will guarantee water lines protection, immunity from destructive rail competition, and that guaranty is absolutely essential to their development.

In passing I wish to read a short quotation from the Commodities Case. Now, this, gentlemen, is the language of the Interstate Commerce Commission:

What interest would be served by lower rates from the eastern seaboard to the Pacific coast than from Chicago? Clearly not the carriers' interests. Any such adjustment of rates would be altogether adverse to the interests of the carriers and would almost inevitably result in their hauling much freight from the seaboard to the Pacific coast which they now haul from intermediate points such as Chicago, a shorter distance, at a less expense. The same policy would result also in serious injury to many of the industries located at interior points which have, under equal rates, built up a large and profitable business on the Pacific coast. Many articles are produced and manufactured both in the interior and on the Atlantic seaboard. Only a certain quantity of these manufactured articles can at present be consumed on the Pacific coast. Any rate adjustment that tends to stimulate the movement of these articles from the Atlantic seaboard will to the same exent decrease the movement from Chicago and other intermediate points. The principal beneficiaries of such an adjustment of rates would be the shippers on or near the Atlantic seaboard to whom would be given a monopoly of many articles in the markets of the Pacific coast. It is clear that the carriers' interest, and the interests of the major part of the public served, lie in the direction of the maintenance of rates from the intermediate points no higher than from the Atlantic coast. The intent of the fourth section and the aim of the commission in enforcing its provisions is to reduce discriminations, not to augment them. Discriminations of vast importance against intermediate points of origin would be created by the establishment of lower rates from the Atlantic seaboard to the Pacific coast than from intermediate points. (Commodity rates to Pacific coast terminals, 32 I. C. C. 611.)

After delivering that language, the same commission turns right around and applies higher rates to the territory on the Pacific coast. If that language means anything it is just as applicable to the territory intermediate to the Pacific coast as it is to the territory intermediate to the Atlantic coast.

If it be unjust to charge more between Chicago and San Francisco than between New York and San Francisco, it is equally unfair to charge more between New York and Salt Lake than between New York and San Francisco. According to my ideas of right and wrong, it ill becomes Chicago to advocate the imposition of a transportation tax on intermountain territory that she would oppose as applied to her.

Here is a quotation in that connection from the Interstate Commerce Commission:

The differences by which rates to points on the eastern side of the back-haul territory exceed the rates to points on the western side would be less marked and discrimination against the eastern points be thereby decreased. * * *

It is obvious that there is now, and will be under any scheme of rate making that may be devised to the back-haul territory, some discrimination against points farther east in intermountain territory. This discrimination, however, under the plan suggested, does not appear to be unjust.

Any discrimination is unjust. If it is not unjust, it is not discrimination. To deprive a locality of its natural advantages seems to be contrary to all principles of justice and by the act to regulate commerce is unlawful.

Section 3 of the act reads as follows:

SEC. 3. That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference

or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

To me it seems plain that to impose on a particular locality higher charges than apply to farther points on the same commodity over the same rails, violates both the letter and the spirit of that section.

The 115 per cent rule evolved by the commission, it seems to me, fetters circuitous routing, which is economic waste. If 10,000 cars move each 150 miles when the same result could be attained by a movement of 100 miles each, there is a waste of 500,000 car-miles. This involves an extra cost that must be paid by the public.

We are all familiar with the hardships of car scarcity, and car scarcity results not so much from an inadequate supply of equipment as from transportation waste. Every unnecessary car-mile means more wage cost, fuel cost, maintenance cost. When carriers present to the commission an application for enhanced rates, they invariably support it with cost statistics. No account is usually taken of the unnecessary cost resulting from transportation waste, but it is always there. Eliminate the economic waste of roundabout transportation and the aggregate cost of transportation will be reduced by millions of dollars. Mr. Chandler's illustration of rates from New York and Boston to Urbana and Toledo, Ohio, via C. & O. is an instance of this condition. To transport freight from New York to Toledo via C. & O. involves a circuitous route almost double the distance by the direct lines. The value to the public of the competition of additional routes does not equal the cost of the economic waste.

Economists warn us of the evils of congested populations:

The practice of imposing higher charges on intermediate points compels congested populations. To illustrate, were lower rates made to and from Chicago, in all directions, than to and from intermediate points, the numerous flourishing manufacturing centers, located within a radius of 100 miles of Chicago, would be depopulated. The plants would perforce have to move to within the magic circle or cease operations.

The violation of the fourth section is not common in this territory. If it were, if it applied generally to Chicago and to other big centers in the North, in what we call central freight and trunk line territories, the public would not stand for it. The very people that are here opposing this bill would be for it.

I have been a good while on earth, gentlemen, but many of you realize that there are things that cling to your memory. Early in my existence, before the days of the Interstate Commerce Commission, there came to my observation an episode that applies directly here. In the little town of Greenfield, Ohio, some 80 miles east of Cincinnati, on the Baltimore & Ohio Railroad, Mr. E. McLean, a saddler, in the early eighties, invented a collar pad. He found that he had evolved something that the public wanted, and in a very short time he was the head of a manufacturing plant. As the plant increased to the extent that he had to use railroad transportation, the matter of railroad rates became of interest to him, and this was the proposition he found himself up against—as I have said, Greenfield is 80 miles east of Cincinnati—to the west, southwest, and northwest Greenfield paid an arbitrary rate over Cincinnati, which was

quite natural. It would be supposed, however, that to the east or southeast and northeast a compensatory lesser rate than Cincinnati's would be afforded. But this was before 1887, and even in this territory to that extent the long-and-short-haul rule was violated, and Mr. McLean found that he was paying an arbitrary rate over Cincinnati to the east as well as the west—an arbitrary rate in every direction.

In 1886 that forced him to remove to Cincinnati—he could not get any relief. In 1887, we all remember, on the 5th day of April, 1887, the act to regulate commerce became a law. The bases of rates were changed; and, as far as that locality is concerned, have been changed ever since. He moved back to Greenfield; he moved his factory. Now, of course, he pays to the west and southwest some arbitrary rate over Cincinnati; but he has to the east not only Cincinnati rates, but a differential under Cincinnati which enables him to conduct his business at Greenfield. Were the Baltimore & Ohio Railroad to put into effect the policy that some of the railroads have, that is to say, to apply to Cincinnati rates that are lower than to intermediate points, Mr. McLean would have to move his factory again back to Cincinnati.

Senator POMERENE. May I interpolate that Mr. McLean has a very large and prosperous business at Greenfield, which he would not have had there had the rates continued as theretofore?

Mr. GOTHLIN. He could not. He actually did move to Cincinnati and moved back when the rates were readjusted after 1887. I know it is a fact that in 1886 the rate situation, applying the higher rates from Greenfield to Cincinnati, compelled him to move his factory down to Cincinnati into a congested district.

Senator POMERENE. I know Mr. McLean and his institution very well.

Mr. GOTHLIN. And you are probably familiar, Senator, with the situation?

Senator POMERENE. I was not familiar with the rate question of which you speak, as applied to him.

Mr. GOTHLIN. It happened that in that day I was a traveling freight agent of the Chicago & Northwestern Railroad and worked through that territory.

Senator MCLEAN. Is it your idea that Congress should, by law, change the existing situation with regard to rates in a way that would compel a redistribution of the population of the country—move New York, we will say, nearer to the coal mines, and Chicago nearer to the iron mines?

Mr. GOTHLIN. Well, I am not sure, if you will pardon me, that the assumption is correct. I do say this, that I am heartily in favor of Congress enacting a long and short haul that will be absolute, and that the result will be absolute justice to all territories, no matter what the result would be, but I am, if you will pardon me, doubtful as to the result that you have so direfully presented.

Senator MCLEAN. It would be disturbing if that did result. You are from Indiana, as I understand?

Mr. GOTHLIN. Yes, sir; I am representing myself only.

Senator MCLEAN. You do not represent the Indiana State commission?

Mr. GOTHLIN. No, sir; I am not pretending to represent anybody except I have had for years strong convictions on this subject.

Senator McLEAN. It is your conviction that there could be no discrimination that is not unjust?

Mr. GOTHLIN. My idea is that the word "discrimination," if it is not discrimination, means that it is unjust, and if it be not unjust it is not discrimination. May I illustrate what I mean by that? It is not unjust, nor is it discrimination, in my opinon, to charge a higher rate for the same service on cash registers than on pig iron. They are different commodities and carry different rates.

Senator McLEAN. I understood you to say in the application of this law under consideration that there could be no discrimination that was not unjust, as I heard you.

Mr. GOTHLIN. Yes, sir; that is it, if it be actual discrimination it must be unjust.

Senator McLEAN. We have the Sherman Act, which forbids restraining of trade. Do you think there could be any restraint of trade which was reasonable; do you think we have a law compelling unjust competition? Do you think there can be any competition that is just?

Mr. GOTHLIN. There is competition that is natural, of course.

Senator McLEAN. Now, let us assume that it costs $10,000,000 to maintain one of these transcontinental railroads; it costs that to operate it, and it can raise $9,000,000 of that money on regular freight charges or transportation charges, that is, without any exception or violation of the long and short haul rule. It still needs a million to pay its running expenses. It finds that is can get that extra million dollars by taking freight at the terminals lower than the intermediate charge, but freight which it would not get at all because of water competition, unless it lowers that rate, and it takes that business, and in that way is enabled to maintain the running expenses of the road. Now, if it loses that million dollars where is it going to make it up?

Mr. GOTHLIN. Well, if you will pardon me, Senator, I can not use your premises. I would hate to give an opinion on premises or on a constructive theory or hypothetical question that I can not agree with.

Senator McLEAN. You do not agree that it will cost $10,000,000 to run a railroad, and you can not get but $9,000,000 on it at regular rates. Suppose you do not agree to that, but suppose at a matter of fact that those conditions do exist; many of the railroads to-day are not making their running expenses.

Mr. GOTHLIN. May I answer that in my own way?

Senator McLEAN. Of course.

Mr. GOTHLIN. It is not a question I can answer "yes" or "no." The carrier must derive revenue sufficient to pay operating expenses and a margin somewhere above—a margin sufficient to return something on the actual investment—a reasonable return. We will assume what is called a 70 per cent operating ratio, which is about the average in the West. I think the average operating ratio in all the western districts is 66 per cent; that means that to the operating expenses you add one-half to make enough to pay overhead charges. Now, if any carrier must have 50 per cent in addition to its bare operating costs to enable it to pay overhead charges and taxes, and it carries 5, 10, 25, or 30 per cent at only one-tenth, or at practically

nothing over operating cost, then the residue of the tonnage transported must pay more than its fair proportion or there is a deficit.

Senator McLEAN. Then, if you are interested in a transcontinental road, you have got to raise the rates to Reno, if you lose that million dollars which you picked up at the terminal?

Mr. GOTHLIN. I can not agree with you there, if you will pardon me. Here is the situation: If the carriers maintain to Pacific coast terminals rates that are reasonable and allow a reasonable margin and nothing higher at the intermediate points, the intermediate territory will naturally take a larger tonnage; and take the haul to Salt Lake City, for instance, the ton per mile on the same rate as the rate to San Francisco, and the car mile earning, which has been adopted by the Interstate Commerce Commission as a criterion on which to base a relatively fair return, would be something like 50 per cent greater on the same rate.

Senator McLEAN. Your idea is that if they reduced the rate to a nonpaying basis it would finish the business?

Senator POINDEXTER. Let him answer the question.

Mr. GOTHLIN. I said that if the carriers to the transcontinental points made rates that were reasonable and adequately compensatory in themselves, they would not, in the first place, lose to the extent of the tonnage that it is now carrying, as seems to be apprehended here. They would lose, of course, some, but the boat lines have an equal right to the protection of the law, and to enable one agency of transportation to indulge in competition that is not fair competition and recoup upon an unprotected territory, is depriving the one agency of equal protection of the law.

Senator POINDEXTER. In answer to Senator McLean's assumption that the railroads would lose their business, that fact is disproved, is it not, by the existing fact and the fact which existed before traffic was stopped through the Panama Canal, when there was every opportunity for water transportation between the Pacific and the Atlantic coast, that the railroads did carry such things as canned salmon, lumber, and other products of the Pacific coast to the Atlantic coast without violation of the fourth section, and yet the boat lines did not take all the business away from them?

Mr. GOTHLIN. They do it to-day.

Senator McLEAN. Oh, well, that, it seems to me, would affect the situation, the principle it involves—that might be so in certain instances, and it is very likely that in the past exceptions have been permitted by the Interstate Commerce Commission that ought to be discontinued. If that is so, it is the fault of the commission and not the fault of the law. I think my question is a fair question and it seems to me that you ought to be able to answer it. You have a railroad that requires so much money and it can raise 90 per cent of it on its regular rates, and we will assume that under those rates the charge to Reno is $1.25 a ton. Now, it has got to pick up some more money to pay its expenses than it gets on these regular rates. It can not charge $1.25 a ton to San Francisco and compete with the water competition, and thereby it requires 10 per cent of the income necessary to maintain the road. Where is it going to get that extra 10 per cent? Is it your idea that it can lower the rate at Reno and so increase the

freight traffic and by losing money, increase its annual income? Where is it going to get that money that it needs to pay expenses?

Mr. GOTHLIN. In the first place, if your premises were absolutely correct, that it can not advance the rate to the Pacific coast and hold that particular business, nevertheless the fact remains that the rate to the Pacific coast should be put upon a basis that will not hurt the interior territory.

Senator MCLEAN. Your idea is it will be unjust—that that is unjust?

Mr. GOTHLIN. Of course it is unjust.

Senator MCLEAN. Where is it unjust to Reno; where does the injustice result to Reno, when all you need is a slate and pencil to demonstrate that if the railroads are prohibited from making this extra compensation the rates to Reno must be raised in order to support the rate?

Mr. GOTHLIN. Not unless it comes from an equal advance to the terminal, and then the jobbing territory will be on equal terms.

Senator STANLEY. Let me ask you a question, which is the more injurious between two competitive points; a raise of, say, 5 per cent or 10 per cent to both points, or discrimination of 2 per cent in favor of one point over the other?

Mr. GOTHLIN. The discrimination is most injurious. An advance made from the necessity of increasing the earning power of the railroad company, and made relatively equal, is not going to hurt anybody.

Senator STANLEY. It is discrimination between competitive points?

Mr. GOTHLIN. Certainly.

Senator STANLEY. If a railroad earns 90 per cent of the amount of money that is necessary to maintain it by just and equitable rates and a fair levy upon all its shippers, and raises 10 per cent of its rates by rebates and discrimination in favor of certain favored individuals, if the railroad can demonstrate the fact that its capacity to pay the interest on its bonds, and to make a reasonable return to its stockholders is dependent upon the continuation of that abuse, do you think it ought to be continued?

Mr. GOTHLIN. No, sir.

Senator STANLEY. Is there any material difference between discrimination in favor of individuals in the same community and discriminations in favor of localities, different localities, and discriminations given to the whole community?

Mr. GOTHLIN. No, sir. In my opinion discrimination against localities is just as antagonistic to right and justice as discriminations between individuals.

Senator MCLEAN. Do you think that it would be discrimination against Reno to raise the extra money needed to sustain the road by lowering the rates at the terminal points and so getting the business, whereas, if they did not get it the result would be to raise the rate to Reno from $1.25 to $1.35 a ton?

Mr. GOTHLIN. And raise the rate at the terminal point at the same time, you mean?

Senator MCLEAN. Do you think that would benefit Reno?

Mr. GOTHLIN. Yes, sir.

Senator MCLEAN. To have the rate raised to $1.35?

Mr. GOTHLIN. If the points that compete with Reno had to pay the same or more. If you will pardon me just a minute, I had not intended to go into this——

Senator POINDEXTER. As a matter of fact, Reno can not develop; if its neighboring cities get a rate of 25 to 50 or 75 per cent lower than it does there would not be any Reno, as far as growth and progress is concerned?

Senator MCLEAN. That depends. Alaska developed when it cost $50 a mile per ton—Alaska developed for all that.

Mr. GOTHLIN. There seems to be some vital misunderstanding. Assuming to-day that a particular rate to San Francisco were advanced so that business could go by water—that is, in so far as it originated at Atlantic coast ports—now that business does not always stop at San Francisco; it does not always stop at the port. It is inland, and the rail line gets a haul out of it anyway, and they give a haul for which they are not charging; and then, further, if you can make a lower rate to those points and then adopt a rate up to the doors of those points, as you must—if this point has to pay that, plus the rate back, and then put this interior point rate up, it will be chopped down to this interior point, and therefore they will take a large part of that territory, at least the points that are not immediately contiguous to the Atlantic coast, which under present conditions go either by water or at a noncompensatory rate.

Senator MCLEAN. That would depend in the long run on whether water traffic, having no competition, should immediately raise its rates to meet the rail competition?

Mr. GOTHLIN. Pardon me, I do not believe that.

Senator STANLEY. Let me get your point. Say that you ship from New York to San Francisco at a lower rate than you ship to a point 300 miles west of San Francisco——

Mr. GOTHLIN. East, you mean?

Senator STANLEY. East of San Francisco. Now, these points intermediate, 300 miles intermediate, ship to San Francisco, and then ship back, say, for 150 miles.

Mr. GOTHLIN. They ship back all the 300 miles, under present conditions.

Senator STANLEY. Well, we will say they ship back 300 miles. Then that freight is carried 600 miles farther than it would be carried if the tonnage was based upon the service rendered and not upon the arbitrary regulations of the road.

Mr. GOTHLIN. That is undoubtedly true.

Senator STANLEY. Have you any idea how much energy—how many millions of tons and how many thousands of miles of wasted haulage results from this system; have you made any figures with respect to that?

Mr. GOTHLIN. I do not know that there is any way to do that except by an immense amount of labor, that would require probably 100 clerks for half a year to do it, but I am inclined to believe that there is every day under the present Federal management of railroads—it is not the same, perhaps, as it was before—40 per cent of wasted ton mileage and wasted car mileage. The questions that the Senator here [Mr. MCLEAN] just asked seemed to me were answered by the Interstate Commerce Commission themselves in what I read a few minutes ago from the Commodities Case (42 I. C. C., 611),

only they were applying to immediate territory—immediate to the Atlantic coast. They have really applied to some of those. You were probably not here, Senator, when I read that.

Senator McLEAN. Your reply to the questions I have asked would indicate that you were mistaken in your view.

Mr. GOTHLIN. Mr. Chairman, I have not very much more to say. There is just one other little matter.

It is not the province of government to establish territorial monopolies. Were Congress to attempt to legislate conferring on certain centers the commercial monopoly of given districts the public would rise in wrath. Yet to an extent carriers have exercised that right by adjusting rates so as to confer on favored points material advantages in competing market territory. And yet they ask who is hurt by it?

The gentlemen opposing this amendment do not seem to agree in their deductions. Mr. Lincoln states as his opinion that the application of an absolute long-and-short-haul rule would give to the water carriers a very large proportion of the tonnage now enjoyed by the rail lines, while Mr. Chandler held that the same rule would almost ruin the water carriers. Mr. Morgan predicted that the boat lines would advance their rates to the detriment of port shippers and receivers. They can not all be right. Is it not probable that their pessimistic outlook is without adequate foundation?

Mr. Morgan made a most remarkable prediction, that this amendment, if it became law, would prohibit communtation rates, convention rates, and mileage books. These rates could not possibly be affected by an absolute long-and-short-haul law. It would be just as true as to state that it would compel the same rates on pig iron and cash registers. If I use a mileage book I am not violating the long-and-short-haul principle, because I actually pay less for 50 miles transportation than for 60, not more, and the same opportunity is open to everybody, therefore no discrimination is involved. Convention rates are usually protected by certificates.

If any section is violated by this practice it is not section 4. If the fourth section, amended as proposed, would abolish convention votes, the present fourth section would abolish them, because the carriers have never thought of securing fourth section relief when establishing such rates, because it is not necessary. Commutation rates are open to everybody. There is no discrimination. They are in a measure quantity rates, just as carload rates are made on freight lower than less carload rates. The long and short haul principle is not violated by charging 10 cents per 100 pounds on a small shipment to a given point and 7 cents per 100 pounds on a carload shipment of the same commodity to a farther point.

Mention has been made frequently of out-of-pocket cost, but nobody has told us what out-of-pocket cost is. It seems to be one thing at one time and another thing at another time, varying in its relation to the higher intermediate rates. Certainly more definite information with reference to it is desirable if it be considered a factor in the determination of the issue here involved.

All of the opponents heard seem very solicitious as to the fate of carrier competition, the abolition of which they seem to think will work hardship on the shipping public. What about the numerous organizations, such as the Trunk Line Association, the Central

Freight Association, the Transcontinental Association, all of which are maintained at a great expense paid by the public for the very purpose of eliminating competition between carriers. As a matter of legal logic the assessment of transportation charges may be regarded as a tax. Taxes should be laid equitably, not more heavily in a relative sense on one community than another. To charge a smaller sum for the carriage of like freight in like quantities a greater distance than a shorter distance over the same rails is unequal taxation and an obvious injustice.

It is my firm belief that the enactment into law of the pending bill is essential to adequate regulation. In fact, there can be no real regulation without it. Admit the principle that competition justifies rate discrimination and you might just as well abandon regulation altogether. It was this same principle that caused rebating, in fact, was the root of all evil that made regulation necessary. For fair, just, reasonable, and nondiscriminating rates the public must look to regulation, not to competition.

A rate structure framed on competition would be a crazy quilt. In fact, competition has so many forms, so many varieties, and varies so in degree as affecting the thousands of commodities and millions of rates that were it desirable there is no human mentality capable of constructing such an adjustment.

Mr. Chairman, I want to state in closing a fact that I have not seen brought out as yet. The transcontinental terminal port rates were not originally long and short haul rates at all; they were contract rates. I am speaking now of the days prior to 1887. I have myself, with my own eyes, seen in the old days a contract whereby the carrier agreed that if the contractee agreed to give all his business to the rail lines he would be given certain reduced rates. Now, as I say, that had no relation to the long and short haul. That was Mr. A, in the Pacific coast port could have, by the benefit of that contract, certain reduced rates that his neighbor right next door, or in the next building, if he did not see fit to relinquish his rate, to have the same come by water, he had to pay the higher rate. Then in 1887, when these rates were made good, they had to be raised to everybody at the ports.

STATEMENT OF MR. M. M. CASKIE, CHAIRMAN OF THE EXECUTIVE COMMITTEE, SOUTHERN TRAFFIC LEAGUE.

Mr. CASKIE. Mr. Chairman and gentlemen of the committee, my name is M. M. Caskie. I am manager of the transportation bureau of the Chamber of Commerce of Montgomery, Ala. I am appearing before you now as chairman of the executive committee of the Southern Traffic League, an organization composed of substantially all of the commercial, industrial, and shipping interests south of the Ohio and Potomac and east of the Mississippi Rivers. Included within our membership are such organizations as the Tennessee Manufacturers Association, the Southern Furniture Manufacturers Association, the South Carolina Cotton Manufacturers Association, the North Carolina Cotton Manufacturers Association, the Georgia Cotton Manufacturers Association, the Southern Wholesale Grocers' Association, the Georgia-Florida Sawmill Association, a large num-

ber of individual shippers, about 50 chambers of commerce, and an equal number of boards of trade, and other commercial bodies.

It can be fairly and justly said that this organization represents most all of the important localities and commercial organizations in the South.

At a recent meeting of our league, the bill which this committee is now considering, was discussed and at that meeting resolutions were passed expressing unequivocal opposition to a rigid long and short-haul rule. Its conclusions in this respect were unanimous, notwithstanding the fact that included within our league are units located not only at water competitive points, but at interior points not enjoying water competitive rates. This is a significant fact and one which we desire to impress upon this committee.

The freight rate adjustment in the South is extremely peculiar and complex. We are bordered on the east by the Atlantic Ocean, on the south by the Gulf of Mexico, on the west by the Mississippi River, on the north by the Ohio River, with a number of important tributaries finding their source in the interior South. All along the Atlantic coast, the Gulf, the Mississippi, and Ohio Rivers, as well as the interior rivers tributary thereto, there are located important cities which enjoy a lower basis of freight than is applied to non-competitive points, not similarly situated.

But, after all, the great majority of the departures from the long and short haul rule in the South do not result from these depressed rail rates at water competitive points; quite to the contrary, and very important, is the fact that the majority of fourth section departures in our section of the country result from what is known as market competition. Indeed, the whole southern section of the country is permeated with departures from the long and short haul rule. The interstate freight rates between practically all cities in the South reached by two or more railroads are on a lower basis than rates to intermediate noncompetitive local stations. These departures do not result from any water competitive influences. In short, we have more deviations from the long and short haul rule than any other section of the country; but notwithstanding this fact, there is no widespread public demand in our section for a rigid long and short haul rule.

We do not understand that the railroads are advocating any such rule, and the fact that a very great majority of the public oppose it in our section should be a very cogent reason why this committee should not favorably report the bill.

Let it be understood here and now that in reaching our conclusions regarding the Poindexter bill we make no plea for the continuance of unjust discrimination. The fact that money has been invested in enterprises that were either established or have been encouraged by means of fourth section departures is used by us only to the extent of cautioning this committee against the very great losses and frequent hardships that are bound to result if this bill is passed. But if fourth section departures are wrong, we can not hope for their continuance just because interests have been built up upon them. Unless such fourth section departures are to be justified by other considerations, then we have nothing important to say.

Without regard, therefore, to the enormous losses which would result from the enforcement of this bill, we rest our case squarely

on the contention that in its very nature a rigid long and short haul principle is incapable of practical application. It may be that others have said the same thing; it may be that many illustrations have been furnished this committee, but we present to you now just two or three propositions, so simple in their nature that we can hardly believe it possible this committee would disregard them by favorably reporting such a bill.

Take the simplest of all: A railroad running from point A to point B charges rates based solely on distance. On that railroad no fourth section departures occur at all. A somewhat parallel railroad also runs from point A to point B, via which the distance is considerably greater than over the line first mentioned. At present that less direct line is permitted to haul freight from point A to point B at the same rate as that which is charged by the shorter line. If the longer line were not so permitted to compete for that traffic the traffic would simply move over the shorter line under the rate that is already in effect. Must the longer line choose between two courses, of withdrawing entirely from that competitive traffic and hauling only local traffic on its own line right up to the terminal point, or should it be permitted to transport that competitive traffic at less rates than are charged to intermediate points? It is obvious that if the long line withdraws from such competitive traffic the intermediate points on its line have gained nothing, since the shorter line will continue to charge to the terminal point the rates that are already in effect.

Probably some members of this committee will say, "How do we know the railroad having the long route will withdraw from participation in the competitive traffic by increasing the terminal rates?" The answer is that so far as we are aware, in a number of the cases with which we are familiar, the railroads have either completely or partially withdrawn from competitive traffic rather than to sacrifice their revenues to intermediate points. That has been the result in virtually every case where fourth section relief has been denied by the Interstate Commerce Commission.

If we can not argue from experience, then we can not argue at all.

Take a very conspicuous instance of this sort: From Louisville and Cincinnati, Ohio, to the Atlantic seaboard there are at least two and probably three very direct lines. The Southern Railway likewise has a route from Louisville to the seaboard which is very much longer than that of the direct lines. At points on the Southern Railway in central Kentucky intermediate to Louisville rates were charged to the seaboard that were higher than those charged by the Southern Railway from Louisville proper. Upon investigation the Interstate Commerce Commission denied fourth section relief to the Southern Railway, and what was the result? Rather than reduce its rates on the important class of traffic from central Kentucky the Southern Railway withdrew entirely from participation in the same class of business from Louisville. Who benefited by this? The direct lines from Louisville got all the traffic, it is true, but did the central Kentucky points get any advantage? Of course not. Their rates remained just where they had been, and so did the rates from Louisville. The upshot of it all was the withdrawal from competitive traffic by the longer line without any benefit to anybody.

Senator POINDEXTER. They were not hurt in any way, were they?

Mr. CASKIE. It resulted in this, Senator: When the Southern Railway withdrew from participation in the traffic from Louisville to the seaboard, it simply removed a competing line, and to that degree and to that extent it removed competition in service. The intermediate points in central Kentucky got no benefit; they continued to pay higher rates than Louisville. We say under this bill the same situation would exist practically all over the country.

Senator POMERENE. What do you mean by competition in service or competition in rates?

Mr. CASKIE. No; competition in service, having several competing lines there to solicit the business, Senator, it naturally improved the service to the shippers of Louisville.

Let us then come to an equally obvious situation. The port of Savannah, Ga., is conveniently served by numerous boat lines running from North Atlantic points. These lines can and do transport great quantities of freight manufactured at the North Atlantic ports and in adjacent territory. As this committee knows, it is along the the North Atlantic seaboard and near-by territory that the greatest industrial activities prevail. Competing with manufacturing establishments in the State of New York or Pennsylvania or Massachusetts there are large manufacturing concerns in Ohio, Indiana, and Illinois. Those central western manufacturing companies are capable of and desire to sell their products in the South in competition with goods manufactured in the East. In order that the West and the East may compete on terms of equality at South Atlantic ports is it not perfectly plain that freight rates from the West must largely correspond with water rates that are made from the East? Is that contrary to public policy? Is that an evil which this committee should strike down?

If it is deemed proper to allow western manufactured articles to compete at Savannah with articles that are manufactured in the East and shipped by water to Savannah, will any economy be effected by rendering it unlawful? Can any public good result from an act of Congress which has the effect of destroying competition between rival producing sections? Do Senators from Ohio, Indiana, and Illinois know that the enactment of the Poindexter bill would mean a substantial withdrawal of the western manufacturers from the selling of goods on equal terms in a large part of the Southeast in competition with their rivals in the East? And suppose the railroads from the West should be required, by means of this bill, to increase their rates from the West to the South Atlantic ports and to points basing thereon? Is it supposed that the eastern manufacturers would continue to give to the public in the South the benefit of the lower rates from the East? Human experience is to the contrary. The net result in all likelihood would be that the price to the consumer would go up and the eastern manufacturer would be the beneficiary of an increased freight rate from the West.

Therefore, one of two things is bound to result if a bill of this nature should be passed. Either the western manufacturer would be shut out very largely from competing with the eastern manufacturers in the South or else the price to the consumer would be raised to the benefit of the eastern manufacturers only.

Much has been said about rates from New York to Memphis. Direct through lines of railway between those two points exist, yet freight can be, and is, shipped from New York to Memphis by water, to South Atlantic ports and thence by rail to Memphis. Is that wrong? If the rail and water route does not participate in that traffic, the direct rail lines will get it all. But will anybody else be benefited? Is it to be supposed that such rail and water routes will reduce the rates to all intermediate points in order to share in business to Memphis alone? Such a thing has never occurred before and, unless this Congress requires it by law, such a reduction will not occur in the future.

Does this committee know that in 1914 the Interstate Commerce Commission considered and determined what would be the result in dollars and cents if intermediate rates were reduced to the level of those at competitive points on inbound traffic alone? Does not this committee recall that the Interstate Commission found the result of a rigid fourth section application on inbound traffic alone in the Southeast would cost the railroads $13,000,000 annually if rates to intermediate points were reduced?

If the rates from New York to Memphis, via the South Atlantic ports, yielded something to the carriers over and above the out-of-pocket expense of handling the traffic (and there has been repeatedly sworn statements made that it does), who is hurt by such an adjustment, and who will be benefited if Congress forbids it? The traffic will still go to Memphis by the direct line and the rates to intermediate points via the indirect line will remain just where they are.

Senator McLEAN. You say the rates to the intermediate points will remain just where they are to-day?

Mr. CASKIE. Yes, sir.

Senator McLEAN. Assuming that these rates as they exist to-day will not pay the expenses of the road, what are you going to do?

Mr. CASKIE. Well, Senator, it is perfectly obvious to me if you deprive these railroads of a large per cent of their traffic—that is, to these ports—by diverting it to steamer lines, they have got to recoup by raising the interior rates, the very points, as I understand, which it is designed by this bill to help out. They have got to get the money somewhere, and if they are cut out from getting it at the ports they have got to get it from the interior. There is no place else to get it.

Senator McLEAN. Or out of the United States Treasury.

Mr. CASKIE. Yes; I think that is what it is coming to if this bill goes into effect.

Now, the situation at Savannah is the same as that at the Gulf ports. Served by steamer lines the eastern manufacturers ship quantities of freight, we will say, to Mobile and New Orleans. Does this Congress deem it necessary to make it unlawful for manufacturers to compete at Mobile and New Orleans west of the seaboard and related points with manufacturers on the seaboard and in the East?

It will be observed that in each of the illustrations dealt with we have predicted an increase in rates to the terminal point. That prediction is based upon continued experience in the enforcement of the fourth section so far.

Now, if it were the policy of Congress not to permit that, but to require a reduction in intermediate rates, it will be comparatively easy

to say so, but we find in this Poindexter bill no provision of this sort. In short, after forbidding absolutely fourth section departures, it leaves the carriers entirely free to readjust their rates by increases if they prefer, subject only to the indefinite requirements of law that all rates must be just and reasonable.

Underneath all this argument in favor of a rigid long-and-short-haul rule is the assertion that something must be done to revitalize water transportation. More than one witness has, without reservation, joined in that wholesome desire. But where does that argument lead to? What is the object of vitalizing water transportation unless in some way it reduces the cost of freight transportation? Boats will serve no useful purpose if the cost of transportation is to be increased any more. Those who contend that railroad rates to water terminals should be increased contend that such increase would enable the boats to operate more profitably, but in what way is the shipper and consumer benefited by the establishment of boats and boat lines if the price that has to be paid for it is a considerably increased transportation cost?

Senator POINDEXTER. Do I understand you are opposed to the establishment of boat lines?

Mr. CASKIE. No, sir; I am not.

Senator POINDEXTER. You seem to be arguing there that it would be a great damage——

Mr. CASKIE. No, sir; I say if we have got to get boats by increasing the total transportation charges of the country, I do not think it is good economics, Senator. I am from a river town, and I want to see the rivers function. In all the public clamor for the development of this land and coastwise waterways there could have been no other purpose but to reduce and, not increase, the cost of transportation.

To increase railroad rates so as to encourage the establishment of a boat line, which will then charge rates as high or higher than were charged by the rail line therefore, is indeed to defeat the very object for which such boat lines ought to be established.

Senator STANLEY. May I ask you a question at that point?

Mr. CASKIE. Yes, sir.

Senator STANLEY. Do you know whether the ton-mile cost by boat is greater or less than that by rail on a given character of freight, say, steel products.

Mr. CASKIE. There is not any question of doubt about it, Senator. I believe there are many classes of freight that can move more economically by water than by rail. One great drawback to our interior river traffic to-day and what has made it so expensive is the fact that we have not the proper terminal facilities. I have been along these landings at river points, and it is nothing in the world but a mud bank. Shippers even at lower rates by water than by rail will often prefer the rail service for the reason that in most of the larger towns the railroads have built sidetracks right into the industries' back door, and they practically give a store-door delivery. You take the terminal expense, the cartage of traffic from a river bank, carload traffic, we will say, up to a man's place of business; it is a considerable item to-day, taking into consideration the cost of labor, etc.

Senator POINDEXTER. That shows, does it not, that all of your argument here that the railroads are going to lose all of their business by the establishment of boat lines is based on a fallacy?

Mr. CASKIE. If the rates go up, Senator, unquestionably that would be true. If you raised the railroad rate—you can raise them high enough to force all the traffic to boat lines. You can make the rates so high they will have to use the boat lines.

Senator POINDEXTER. I understood you to say that many shippers would prefer shipment by rail even though the rate were a little higher.

Mr. CASKIE. That is true, a little higher; but we do not understand that these boat lines—if what we understand is the correct idea here, it is to let all of these rivers haul a considerable volume of traffic. We know that the Government has appropriated millions of dollars to improve these rivers; we know the Railroad Administration is building boats to navigate those rivers. Where is the public going to get off on this proposition? In the final windup are we going to have a better situation than we have now?

Senator POINDEXTER. The best way for the public to get off is to stop paying for this transportation out of the Government Treasury and allow private parties to operate the boat lines.

Mr. CASKIE. Senator, I want to say one thing in defense of my section of the country: The United States Government did not pull a penny out of the Treasury to operate our railroads. While the country fell down, perhaps, $250,000,000, the southern railways were operated at a profit.

Senator POINDEXTER. But the Government did put up money to operate barges on the Mississippi River which could not be operated by private companies because of this discrimination in rates?

Senator MCLEAN. I suppose one object is to secure as cheap transportation for the people as possible. Now, if the railroads can move freight along the Mississippi River a good deal cheaper than it can be moved in boats, why, that is a consideration.

Mr. CASKIE. Wherever that can be demonstrated, Senator, fourth-section relief ought not to be allowed.

Senator STANLEY. That is exactly the crux of the situation—the guts of it—and that is what I am trying to get at. The principal party in interest is not here, so far as I am concerned. I am in a unique position. My State has the greatest river frontage of any Commonwealth in the Union, as you know.

Mr. CASKIE. Yes, sir.

Senator STANLEY. Every town in my State—every city in my State—with but one exception, of over 12,000 or 15,000 inhabitants is on a river and is not crying out in terror at this Poindexter bill, from Ashland to Paducah, as you know.

Mr. CASKIE. Yes, sir.

Senator STANLEY. If the railroads can transport a ton of freight a mile for less money than a boat can carry it on a river, the quicker we recognize that fact and the quicker we quit spending a half a billion dollars on our rivers the better. If the boats can carry a ton of freight for materially less than a railroad can for a given distance, then the fact that the boat does not do it is due to the fact that the railroads have been carrying that freight at a loss for the purpose of preventing the people from utilizing this half a billion dollars that has been spent in the improvement of navigable streams. That is the whole question, to my mind. I have not heard anybody discuss that.

Mr. CASKIE. It is inconceivable to my mind that railroads to-day, under the present conditions, would so reduce their rates, as a matter of sentiment, to keep off water competition, and the net result would be for them to lose money. I can not believe it.

Senator STANLEY. You do not believe the railroads have ever carried freight at a loss to eliminate water competition?

Mr. CASKIE. Oh, no; of course, we know that is a historical fact. There are instances that we can cite. I mean, as a general proposition, railroads are pretty smart people, and they are not giving away their money simply to see a boat line go out of existence.

I want to go back and reiterate that, that where it can be demonstrated that any railroad or set of railroads are reducing rates to put out boat-line competition for hauling freight to a water competitive point, and losing money, unquestionably that is casting a burden on other traffic, and the Interstate Commerce Commission should not permit it, and the Interstate Commerce Commission will not permit it if you will bring the matter to their attention.

Senator STANLEY. You think the establishment of a minimum rate rather than a rigid long-and-short-haul clause is the solution?

Mr. CASKIE. Absolutely; there is no doubt of it, because the Interstate Commerce Commission will go into the inside of it, and they will investigate it, and they will get their accountants to investigate it, and they will determine whether the railroad company is making any money out of these rates; and if they are not, they will say, "You will have to increase your rates, because you are asking somebody else to pay the transportation charges other than those who are getting the benefit of it." We suppose it will be said that not in all cases will boat-line rates be increased as we predict, but of course boat rates would be increased, because that is the object of increasing rail rates; that is to allow the boats to make more money.

Hence the idea that in some way the result of increased railroad rates at terminal points will be a good thing for water transportation holds good in so far as you consider only the profits of the boat line, but we fail to see where the shipper who uses the boat is benefited at all. The consumer gets no benefit; the railroad loses. The boats will gain all right, but at the expense of the carrier and the public as well. Moreover, if both the rail and the water rates be increased, the city located on the seacoast or a navigable river will still have a transportation charge something less than the rail charge to the interior point, by virtue of the fact that the water point can still bring in its goods by boat. To that extent it will continue to have forever an advantage over the interior city, and the only consequence of the whole readjustment is to allow the boat lines to monopolize the traffic, with a resulting net increase in transportation costs.

When we say there will be a transference of traffic from rail to water lines, those who favor this bill reply that is one of the things to be desired, because to that extent congestion of freight on the rail lines is relieved; but, apart from the fact that the public will be charged with the expense of that relieving congestion, it is a mistaken idea to suppose that there is a chronic state of congestion in this country. It is true the concentration of enormous quantities of freight in the large manufacturing districts of this country during

the war, coupled with unusually severe weather conditions, led to a very acute condition, which, in part, the boats tended to relieve; but we have no idea that any such condition will immediately recur, and we hope will never occur again.

Moreover, all the talk about congestion of the railroads is wholly inapplicable to the greater part of the United States. North of the Ohio River and east of the Mississippi River there has been congestion in considerable degree, but during the period of the most acute congestion in that territory, conditions throughout the rest of the country were nowhere near so bad. To-day, of course, idle box cars may be found in abundance, and railroad earnings have gone down as the number of such idle cars have increased. But in what way was the removal of the congestion during the war attempted? Was it not by the use of indirect lines and what would now be termed as circuitous routes? Could congestion be brought about in a more effective way than to force traffic to be funneled over the shorter and most direct line, which is one of the most important consequences which this bill would bring about? Instead of relieving congestion by sending freight to the water lines, which reach only a small part of the country; this bill would tend to create congestion in a very considerable degree.

You prohibit the longer line from meeting the rate of the direct line and you are going to funnel all of that traffic over the direct line.

Senator POINDEXTER. Take, for instance, Mr. Gothlin mentioned a while ago, where a man moved his factory from the big town of Cincinnati out to the small town of Greenfield. Do you think that that created congestion of business?

Mr. CASKIE. I should say not; I should say it relieved it in Cincinnati, if he got away from Cincinnati; I should say to that extent it relieved the situation.

Senator POINDEXTER. If it relieved the congestion in that instance, the same principle would apply throughout the country. It would have the same effect, would it not?

Mr. CASKIE. If we had congestion all over the country such as they had at Cincinnati, perhaps something of this sort should be done. We do not think you should pick out an individual case of that character and try to give it general application, Senator. We have no congestion in the South and we did not have during the war.

Senator POINDEXTER. But if this bill was passed you would have more congestion, and more business.

Mr. CASKIE. I am sorry I disagree with you on that. We will have more congestion, but I doubt that we will have more business; we will have congestion over certain lines and others will be idle. There are certain circuitous routes in the South which do not originate any traffic. They have got to participate in the business. We have to deal with those matters in a practical sort of way. Fifteen years ago, when I entered the railroad business and first saw a freight rate, and heard all of these fellows talking, I thought all of these rates ought to be on a mileage basis; I did not see any reason why they should not be, but after I went into the question and studied it I saw it was absolutely impossible to make rates on a rigid mileage or long-and-short-haul basis. If you pass a bill to-day putting all

freight rates in this country on a mileage basis, it would be self-destructive in time.

Senator POINDEXTER. That would create discrimination.

Mr. CASKIE. No, sir; there would be no discrimination.

Senator POINDEXTER. I should think there would be so far as the absolute rate was concerned, to give some places lower rates than others.

Mr. CASKIE. That would not be discrimination.

Senator POINDEXTER. Whereas this bill would simply prevent giving a lower rate to the city which had the long haul than to the city which had the short haul. There is no discrimination in that.

Mr. CASKIE. I know, and it is persuasive on this phase; I admit that; it seems logical.

Senator POINDEXTER. I am not speaking about the persuasiveness of it; I am speaking about the cold facts. This is not a mileage bill.

Mr. CASKIE. Now, Senator, if we assume that under this bill it will be permissible to charge as high a rate at an intermediate point as a further distant point, and allow the further distant point the same conditions that exist in that further distant points that justifies a lower rate, a shorter distanced point getting these conditions——

Senator POINDEXTER. That is entirely a different question. That is not involved in this matter at all.

Mr. CASKIE. I beg your pardon, Senator; if I interpret your bill correctly, I understand you say something in there shall be construed as permitting these intermediate points to be as high as the farther distant points, but the practical application of it in working out these rates—the railroads could do that. It is not prohibited. Permission is not given, but it is not prohibited.

Senator POINDEXTER. It is not prohibited now.

Mr. CASKIE. No.

Senator POINDEXTER. So the passage of this bill has no effect on that question; it is not prohibited now and it would not be prohibited if the bill were passed.

Mr. CASKIE. You would undoubtedly work to a mileage basis, because mileage is the fundamental thing in this long-and-short-haul business. This distance is controlling. You say for a shorter distance.

Senator MCLEAN. If you charge the same rate for carrying freight 100 miles that you did for carrying it 50 miles people living at the 50 mile station would immediately complain that they were discriminated against.

Mr. CASKIE. Yes, sir.

Senator MCLEAN. And the tendency would be to force the mileage basis.

Mr. CASKIE. Why, of course; it is inevitable, to my mind.

Senator MCLEAN. The discrimination is there, but it is lesser in degree.

Mr. CASKIE. Yes, sir; it is a matter of degree. If the 50-mile point comes in and complains that it is being charged as high a rate as the 100-mile point and the railroads would undertake to justify that proposition by saying there are some conditions at that farther distance point that justify charging as low a rate as to the intermediate point, why could not the degree of that influence at

the farther distant point be even stronger and produce even a lower rate? If it justified the same rate it will justify a lower rate, in my opinion.

Senator STANLEY. Is there not some difference between your hypothesis and your facts? As I understood, you said the South, the whole region, is not complaining of present conditions, neither the railroads nor the shippers, now. So if they do not complain where you charge more for the shorter than for the longer haul, do you think they will complain when they charge the same fee?

Mr. CASKIE. I never said they would complain; I said they could.

Senator STANLEY. The whole argument was based on the idea that they could complain.

Mr. CASKIE. No.

Senator MCLEAN. The people in Reno and Spokane would.

Senator STANLEY. I think the people in Spokane would prefer a half a loaf rather than have no bread.

Senator MCLEAN. The same injustice would be involved in a lesser degree.

Senator POINDEXTER. That is not affected by this bill. The bill does not change the situation in that regard.

For more than 30 years Congress has confided to the Interstate Commerce Commission the determination of what is just and what is unjust. During that whole time, year in and year out, the Interstate Commerce Commission has had to deal with intermountain situations and southeastern situations from every point of view. Neither under section 4 nor any other section of the act can it fairly be said that the Interstate Commerce Commission has been other than impartial. In each case as it arises the Interstate Commerce Commission has carefully considered the claims of all interested parties. In a multitude of instances the commission has denied fourth section relief, regardless of consequences to established business. In other instances, where compelling circumstances seem to require it, the commission has administered the law as it found it and allowed relief as required.

It would seem that those who had meritorious complaints should have no difficulty in sustaining them before the commission, and those who had not must fail. The law itself represents the conservative will of Congress in confiding to the commission reasonable discretion to grant relief in special cases only. If that discretion has been abused, in the judgment of those who are now complaining or have not availed themselves of the law, they are in no position to tear down the entire fabric of rates and economics of this country when other means would serve as well.

Congress itself has never sought before to fix the rates by legislative enactment. Chartering out the main principles according to which rates should be constructed, it has delegated to the Interstate Commerce Commission the practical details. To withdraw from the commission now the discretionary power which it impartially has attempted to exercise will start a chain of consequences no man here can realize.

We ask you not to do this, to leave the commission untrammeled in the exercise of its reasonable judgment and discretion. Its experience and wisdom in such matters qualifies it to assume this respon-

sibility, and we respectfully submit that decisions of this nature properly belong to such a tribunal.

We close with the regrettable assertion that if this bill becomes law the chaos, confusion, losses, and hardships that will result will be simply indescribable.

Senator POMERENE. You seem to admit that there have been serious injustices to certain localities under the present rulings of the Interstate Commerce Commission. Now assuming, for the sake of the argument, that there should not be a hard and fast long-and-short-haul clause, what suggestion would you make with respect to legislation which would prevent these injustices being continued in the way they have existed for some years in certain localities?

Mr. CASKIE. Senator, let me answer this in this way: Our organization has thoroughly considered this whole railroad situation, and we have approved of your bill as a solution of the railroad situation. In that approval we understood the fourth section would stand as it is to-day. Now, I think that the proposition to give the Interstate Commerce Commission the power to prescribe minimum rates as well as maximum rates absolutely answers that whole proposition, because the thing ought to be dealt with on its individual merits. I do not care what kind of rule you lay down. I believe in time, if you pass this bill, you will have to go back and make some modification of it. We believe your bill meets the requirements of the whole situation.

Senator POINDEXTER. Why do you think that granting the Interstate Commerce Commission authority to fix minimum rates would relieve this situation, in view of the fact that the Interstate Commerce Commission had authorized the railroads to fix such a rate, without naming the minimum, but such a rate as would prevent water competition? In other words, on the theory of potential water competition.

Mr. CASKIE. I do not think the commission has ever intentionally done that, Senator, and I do not believe they will do it in the future.

Senator POINDEXTER. Their decisions show they have done it, and I assume it was intentional.

Mr. CASKIE. Not to keep out water competition.

Senator POINDEXTER. They have laid down the rule that if the railroad is not allowed to make these terminal rates, then there would be boat lines established, which is equivalent to saying, if they are allowed to make these terminal rates boat lines will not be established. So, fixing a minimum rate on that theory would have the same effect.

Mr. CASKIE. Well, Senator, of course the public has somewhat changed its attitude on these great questions, and I have no doubt that the Interstate Commerce Commission recognized the change in sentiment throughout the country and will respond to that change of sentiment. I believe we can rely upon the Interstate Commerce Commission to do the right thing in all cases. I have got the greatest admiration and respect for the Interstate Commerce Commission.

Senator MCLEAN. Have they not relieved the situation in the intermountain region since the canal traffic was stopped?

Mr. CASKIE. They can not do it all at once, Senator McLean. If you will give that body time—they have been burdened with all

sorts of propositions up there—if you will give that commission time, they will work out this fourth section under the present law as provided for in Senator Pomerene's bill. I believe that.

Senator POMERENE. Now, just another thought. I am glad to hear that you approve the establishment of a minimum rate, or the authority to fix a minimum rate, as well as a maximum rate. But, assuming for the sake of the argument that that provision was now in the law and the Interstate Commerce Commission was about to exercise that authority, would not that substantially destroy your objection to the Poindexter bill?

Mr. CASKIE. Yes, sir.

Senator MCLEAN. You mean that if the minimum rate was established, the enactment of the Poindexter bill in conjunction would not bring about the same injustice that was brought about in the change.

Mr. CASKIE. Maybe I did not follow the Senator in his question.

(The reporter read Senator Pomerene's question.)

Mr. CASKIE. Well, that is a hypothetical question. I think your minimum, giving the commission authority to prescribe minimum rates, obviates the necessity for any rigid long-and-short-haul rule.

The CHAIRMAN. The substance of that question is, suppose we put the two bills together, do you think both bills should be passed?

Mr. CASKIE. No, sir; I do not think so, because the Pomerene bill in my opinion gives the commission discretion to determine just how far the railroad companies can go, and should go, and Senator Poindexter's bill prohibits them from going at all; they must simply give up this water traffic or reduce the rates.

The CHAIRMAN. Evidently the witness answered under a misapprehension.

Mr. CASKIE. Yes, sir; I did not understand.

Senator ROBINSON. Does not the commission now, in fact, when it exercise the discretionary power vested in it under the fourth section, fix the minimum rate; is not that the effect of the act?

Mr. CASKIE. I do not think so, Senator.

The CHAIRMAN. If there is nothing further, we will call Mr. Gregory.

Mr. CASKIE. Mr. Chairman, there is a legal phase of this question which I am not able to deal with. It will only take Mr. Cotterill but two minutes to take up that matter, and I would appreciate it if you would let him make a statement.

Senator STANLEY. Just one question. I have not had a chance to examine Senator Pomerene's bill yet, but as I understand it, in a cursory way, the Interstate Commerce Commission could establish a minimum rate which was greater or higher than would be established by a rigid enforcement of the long-and-short-haul clause at certain points. Is that true?

Mr. CASKIE. Yes; in other words, the commission, under that authority, would not allow the railroad companies to make a lower rate than was justified under all the circumstances and conditions.

Senator ROBINSON. Do they do that now?

Mr. CASKIE. No; I do not believe they do.

Senator ROBINSON. That is the question I asked you a while ago. If the effect of the action of the commission is not intended to be

the establishment of minimum rates, and I maintain that is the case, and your last answer, I think, controverts your former answer.

Mr. CASKIE. Ordinarily, Senator, when the commission finds that there are conditions at the farther distant point that justify lower rates than the intermediate point, that is as far as they go.

Senator ROBINSON. But does the commission, in the exercise of this power, authorize the railroads to establish rates which constitute a loss in the operation of their property?

Senator POINDEXTER. Unreasonably low.

Mr. CASKIE. I think that is true, Senator, but you have got to realize that the Interstate Commerce Commission only has power to fix maximum rates and not minimum rates.

STATEMENT OF MR. CHARLES E. COTTERILL, REPRESENTING THE MEMPHIS CHAMBER OF COMMERCE, MEMPHIS MERCHANTS' EXCHANGE, AND MEMPHIS COTTON EXCHANGE.

Mr. COTTERILL. Mr. Chairman, I am general counsel of the organizations for which Mr. Caskie has spoken. In addition to that I am appearing here especially for the New Orleans Joint Traffic Bureau, the New Orleans Chamber of Commerce, the Paducah Board of Trade, the Nashville (Tenn.) Traffic Bureau, Jacksonville Freight Bureau, the Memphis Freight Bureau, the Chamber of Commerce of Baton Rouge and Bayou Sara, and the Chambers of Commerce of Greenville and Greenwood, Miss.

I want to direct the attention of the committee to just one legal phase of this question which I do not know has as yet been discussed.

As construed by the Supreme Court of the United States, the existing fourth section has been declared to contain no prohibition which is not embodied and dictated and governed by the third section of the act to regulate commerce. The only consequence of the amendment of 1910 was to transfer from the carriers to the commission the power of initiating one particular form of discrimination. There is no prohibition in the fourth section which is not governed by section three. Were it not otherwise, your section 4 would have been declared unconstitutional.

Senator POINDEXTER. Have you read the opinion of Chief Justice Fuller and other justices of the Supreme Court to the effect that the administration of the fourth section practically has the effect of nullifying the third section against discrimination?

Mr. COTTERILL. Yes, sir; those decisions were all prior to 1910. I am speaking now of the decision of the Supreme Court after 1910. They held that as that bill was framed in 1910 it would have been unconstitutional unless they read into it the provisions of section 3. I mention that to lay a foundation for what I am going to say.

There is no substantive prohibition in the fourth section except that which is contained in the third. You gentlemen here are dealing with only one form of discrimination. It is not only conceivable, but it is so commonplace that you gentlemen must realize that at a water point you will have lower rates not only to some intermediate town but to some adjacent point, which is not intermediate. The discrimination is the same in degree, the same in amount, created by the same conditions, and wherein is one any more unlawful than the other? In principle you can not stop with the forbidding of this

discrimination, making an absolute antidiscrimination clause, only in so far as the point discriminated against may be intermediate, unless you are prepared to go further and forbid all discrimination under section three. Those are the principles with which you are dealing.

The CHAIRMAN. The committee would be very glad if you would put the statement of the thought you have just suggested in writing and submit it to the committee so it can go into the record.

Mr. COTTERILL. I thank you, Mr. Chairman.

STATEMENT OF MR. H. M. GREGORY, LITTLE ROCK, ARK.

The CHAIRMAN. State your name, residence, and your relation to this subject.

Mr. GREGORY. My name is H. M. Gregory; I reside at Little Rock, Ark. I am here to-day as the representative of more than 80 per cent of the shippers and receivers of freight who are located in the interior cities of Arkansas. Among others, I may mention the Arkansas Jobbers' and Manufacturers' Association, the Arkansas Rice Growers' Association, and the chambers of commerce and boards of trade of 32 of the cities.

Right here I wish to say that the gentleman that just preceded me, representing the Southern Grocers' Association—I want to say that his remarks did not apply to the members of the Southern Grocers' Association who are located in the State of Arkansas. I understand that there are 27 of our wholesale jobbers in Arkansas who are members of the Southern Grocers' Association, but we do not subscribe to anything that that gentleman says.

I have had more than 20 years of experience in railroad work in various positions, from office boy to that of general freight and passenger agent, in addition to 3½ years as rate expert for the Arkansas State Railroad Commission. For the past 10 years I have given a special study to freight rates as they apply to and from Arkansas.

I feel that I am qualified to testify at this hearing in behalf of what is known as Senate bill 360 and H. R. 5419 by Mr. Goodwin, of Arkansas, which is intended to so amend section 4 of the act to regulate interstate commerce that it will be unlawful to charge any greater compensation for a short than for a longer haul of freight transported via any line or lines the shorter being included in the longer haul. There is a slight difference in the verbage of the two bills, but both seek to correct the same fault, the House bill by Mr. Goodwin is somewhat broader in its terms, and is as follows:

A BILL To amend section 4 of the act entitled "An act to regulate commerce," approved February 4, 1887, as amended June 18, 1910.

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That section 4 of the act entitled "An act to regulate commerce" be further amended, as follows:

"SEC. 4. That it shall be unlawful for any common carrier engaged in interstate commerce to charge or receive any greater compensation in the aggregate for the transportation of passengers of the same class, or of goods, wares, merchandise, or any property of like class or kind for a shorter than for a longer distance over the same line of railroad or route in the same diection, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates for passengers or freight; but this shall not be construed as authorizing any common carrier within the terms of this act to charge or receive as great compensation for a shorter as for a longer distance.

"Any person, corporation, or company violating any of the provisions of this section shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which said offense was wholly or in part committed, be subject for each offense to the penalties for unlawful discrimination by section 10 of this act."

Gentlemen, in my humble judgment, and I say this for more than 16,000 of the shippers of Arkansas as well as for myself, we feel that the passage of this act is going to be one of the greatest things that will happen during our lives to develop Arkansas, which is to-day the most discriminated against State in the United States so far as freight-rate adjustments are concerned.

As you know, the State of Arkansas is bounded on the east by the Mississippi River, and there is just one city in the State that to-day enjoys preferential rates, and that is Helena, Ark., located 32 miles south of Memphis, Tenn. I assume there will be some one here to appear for that city.

Senator McLEAN. Do you represent Little Rock and Pine Bluff?

Mr. GREGORY. I do not represent the city of Little Rock; however, I am here as representative of some of the shippers of Little Rock, also some of the shippers of the city of Pine Bluff.

Senator McLEAN. Fort Smith?

Mr. GREGORY. No, sir; I represent no one at Fort Smith.

Senator McLEAN. Texarkana?

Mr. GREGORY. Yes, sir; we have one member in Texarkana.

Senator McLEAN. There is a difference of opinion in those large places.

Mr. GREGORY. I do not think that there is, Senator. I think the consensus of opinion is unanimous in regard to this matter, with the exception of Helena. I think that if a vote of the city of Little Rock and the city of Fort Smith and Pine Bluff and Texarkana was taken, the majority would be very much for the enactment of this bill. I assume that all of the river cities will oppose the passage of this bill. In fact, all cities which have the perferential freight rates will object, as they realize that the passage of this bill means that the freight rates must be equalized.

At this point I would like to read an article that I clipped from the Memphis paper as of date June 6. I happened to be in Memphis that day and noted this article and purchased the paper, and about the first thing that I discovered in that paper, printed in box-car letters, so to speak, was the following:

Preferential freight rates in grave danger. Again the shippers located on the navigable rivers must fight to retain favorable freight rates now in effect by reason of the competition between river and rail traffic.

Should the amendment to the act to regulate commerce introduced by Senator Poindexter be passed, which in effect would destroy the bearing of river transportation on the making of freight rates, it will mean an increase of rates from Memphis and all other river cities and towns that will cost the citizens thousands of dollars annually. A hearing on the amendment has been set for Tuesday at Washington.

I also notice there is practically the same thing handed me in the Memphis Commercial Appeal.

I want to say further that I ran into a gentleman while in Memphis who told me they were asking all the traveling salesmen, traveling in Arkansas, to do everything they could to get the shippers in eastern Arkansas to write letters to Washington to the Senators and

Congressmen to kill this bill. They were telling the people that if this bill was passed it meant that freight rates to all the interior Arkansas cities were to go up—all the interior cities' rates to go up.

Now, gentlemen, I attended the hearing here yesterday, and I heard the testimony of the several witnesses, and all of those witnesses, as I understand it, come from cities that have preferential freight rates.

I heard one of these gentlemen tell you yesterday that if this bill was passed it meant that all of the freight rates would be raised to the level of the highest interior city rates. I hope that none of you will take such statements other than as a joke. My opinion is, and I have given this much study, that if the bill is passed the railroads will slightly increase the rates to the river points and slightly reduce rates to the interior points. I think that the really big men of the railroads realize this to-day. I have talked with some of them, and I know that they realize that the railroads can not hope to continue much longer some of the what I would call stepladder rate adjustments as obtain in the State of Arkansas to-day.

I would very much like to see Congress give to the Interstate Commerce Commission the power to prescribe minimum as well as maximum freight rates. I did not know until just a few minutes ago that there is such a bill or a clause in some bill to give the Interstate Commerce Commission the right to make minimum rates. I sincerely hope that that bill will also be passed, as I feel that if this is done the Interstate Commerce Commission could do much more good than they are doing to-day if they were given such authority.

Senator McLEAN. They could do all that was necessary, could they not?

Mr. GREGORY. I do not think they could; I know they could not. I think that is a fine thing combined with the passage of this bill. The two together, to my mind, are going to relieve the situation and give all localities equal rates mile for mile.

Senator McLEAN. You mean to say that you are in favor of the mileage rates?

Mr. GREGORY. Not necessarily; no, sir. If you will pardon me a second, I will cover that situation.

You have been told that if this bill passed that all rates would have to be made strictly on mileage, I do not see it that way. I have in mind the express rates, when this was up, these same people told us that if adjustments made along the lines suggested that we would all have to go into bankruptcy, the same things were said regarding parcel post. At that time I was an employee of a railroad in the capacity of general freight and passenger agent. As a matter of fact, I got excited and I thought it was going to bankrupt my little one-ring circus railroad. It did not happen. Under the zone system our road became more prosperous, and the people were much better satisfied than they were prior to that time. The same can be said of the parcels post. About the only fellows I see in this situation who are going to be hurt by the passage of this bill, according to my judgment, are the traffic commissioners—and I am one of them; I realize that the passage of this act, gentlemen, is going to cause me to lose my job. I am not going to have any job after this bill is passed, and neither are any of these other fellows; and the facts of the case are that we ought not to be in the case at all; we could do much better working out on the farm or somewhere else.

Senator POMERENE. Then that would account for the fact that I have received a number of letters from traffic managers in Ohio.

Mr. GREGORY. So far as I am concerned I will say to you, Senator, that I am willing to see my job fade away, if it will have the effect of more economical conditions in our country. I am willing to step down and out; I want to say to you that the charging of greater rates for the shorter than for the longer distance, at least so far as Arkansas is concerned, has done more to breed socialism in the past few years than any one thing that I know of. I think it has; I sincerely think it has.

The people of the interior cities of our State are becoming enlightened and the time has come when they demand that the log be rolled over and the cities who now have these preferential freight rates be made to carry their end.

We feel that all common carriers, the water carriers as well as the rail carriers who are engaged in interstate commerce, should be under the jurisdiction of the Interstate Commerce Commission.

That does not obtain to-day. I am talking now so far as the rivers are concerned. I do not know as to conditions on the oceans, but I do know that on the Mississippi River and other rivers in Arkansas, the navigable streams, there are a great many of these so-called wildcat steamboats plying on the river and I think they should also be placed under the jurisdiction of the Interstate Commerce Commission.

Every common carrier engaged in the transportation business should be under the Interstate Commerce Commission. I know of no good reason why the water rates should have any relationship to the all-rail rates. Each traffic should stand on its own bottom. There are certain kinds of traffic that move between river and ocean points that can be moved by steamboat at rates that no rail carrier could hope to compete for. While the steamboats can handle such traffic at a profit, the rail carrier could not.

I have had experience in dealing with steamboat lines. I was in the railroad business, and tried to put the steamboats out of business. I succeeded in doing it by cutting the rates, and when I did it, gentlemen, I made rates so low that they did not even pay for the axle grease, but I put the steamboats out of business. I made up my mind I was going to kill that traffic and I did. I am sorry to say it; I realize it now.

Senator STANLEY. Can the railroad always kill the traffic of the boat line?

Mr. GREGORY. I was pretty successful.

Senator STANLEY. Did you kill competition between the two?

Mr. GREGORY. I did. We kept cutting with them until the rates got down to where they could not buy cordwood for the engine.

Senator MCLEAN. The steamboat needs axle grease as well as the railroad.

Mr. GREGORY. Yes, sir; and I was always very careful to get it in a town located between two bayous, so to speak, where boats could not get it, except my way.

Senator STANLEY. A boat has but one source to obtain axle grease; the railroads can get lubricants at hundreds of places.

Mr. GREGORY. Yes, sir; that is the proposition.

Senator POMERENE. That may account for the fact, in part at least, that during the last year or two, when it was difficult to get transportation for coal in the Ohio River valley, there was less coal hauled down the Ohio River than there had been several years before.

Mr. GREGORY. Yes, sir; that is true. Gentlemen, bear in mind that what the railroads are losing in handling the traffic between river points is added to the freight rates at all of the interior cities, possibly with a few favored cities.

I find that in my 20 years' and more experience that there is always one or two favored cities—interior cities. That is a fact. When I was in the railroad business I had one favorite city, the city I lived in; the boys would get around and talk to me, you know, and make good fellows of themselves, and I sort of favored them a little bit in the way of preferential freight rates. I am sorry to say that, also, but it is a fact; it is the truth.

This unjust and unwarranted discrimination has, as we see it, continued long enough. We had hoped that when the Government took over the railroads as one system that this would be done, but instead the opposite has happened. At least so far as Arkansas is concerned, the formation of these so-called Railroad Administration district traffic committees was.

The CHAIRMAN. That is not material, is it, to this inquiry?

Mr. GREGORY. Yes, sir; I want to bring out this particular point, Mr. Chairman, that we can not get the relief we are asking for, the elimination of this discrimination through the medium of the United States Railroad Administration and their district committees.

The CHAIRMAN. We hope that will not continue long.

Mr. GREGORY. Well, assuming it will not, I will pass on by that point, to make my talk as short as possible.

Yesterday, one of the witnesses, I believe it was a gentleman from Boston, spoke about sugar rates. That you can see for yourselves just what the present adjustment on sugar is from New Orleans to Arkansas, Missouri, Iowa, Illinois, Minnesota, Kansas, Oklahoma, and Nebraska, I have had a map painted in water colors which I would like to lay before you at this time. I have not had time to cover this as I would like to have done, but I think I can show you about the most unscientific adjustment of freight rates that was ever forced on the public.

I want to show you how these railroads make freight rates. Now, here is New Orleans to Arkansas, the rate is via the T. & P., care of Missouri Pacific Railroad. We will spot one point. Here is Camden, Ark. That distance is 361 miles. Under the present adjustment they charge a rate of 50 cents per 100 pounds—that 50 cents a hundred pounds means on the average loading of a car that weighs 50,000 pounds—or $250 per car, or 70 cents per car per mile for that distance.

Now, gentlemen, I want to call your attention to Chicago, Ill., up here. They carry sugar from this point down here—New Orleans—and a lot of it is transported, or at least there is an open route via the T. & P., care of the Missouri Pacific, care of the Wabash Railroad—into Chicago for 45 cents per 100 pounds, or 5 cents less than the rate to Camden, Ark. The distance to Chicago is almost a thousand miles.

Senator POMERENE. What is the other distance?

Mr. GREGORY. Three hundred and sixty-two miles to the place I mentioned, Camden, Ark.

Senator ROBINSON. Chicago is about three times as far as Camden, Ark., from New Orleans, and the rate is less?

Mr. GREGORY. Yes, sir; $25 a car less. That is not so bad. That is bad enough, but it is not so awfully bad either. Here is a worse situation. We will take the rate at this same point, it is still 50 cents, or I will take the rate over at De Queen, Ark., which happens to be 417 miles, and the rate is 54 cents.

Senator POMERENE. From New Orleans?

Mr. GREGORY. Yes, sir.

Senator POMERENE. To what point?

Mr. GREGORY. I mentioned De Queen, Ark.

Now, gentlemen, the rate to St. Paul, Minn., is only 52 cents.

Senator ROBINSON. What is the distance?

Mr. GREGORY. Approximately 1,500 miles.

Senator ROBINSON. Nearly four times as great a distance as from New Orleans to Camden, Ark., and the rate is 2 cents less?

Mr. GREGORY. Yes, sir; 2 cents per 100 pounds less.

Now, when I saw this, I got interested, and I arranged to have a man go up to St. Paul to find out if there was actually some river competition from New Orleans.

Senator STANLEY. This is a scientific demonstration of the fact that the farther the railroad carries a thing the less it costs.

Mr. GREGORY. Yes, sir; and I believe if we went over into Canada they might have cut that rate down to about the rate which applies to Ruston, La., which is 25 cents; and, of course, if they went on farther north they would haul it for nothing, and they might pay the shipper something for letting them haul it. That is just a sample.

Now, I have another case——

Senator POMERENE. When were those rates fixed?

Mr. GREGORY. These particular rates?

Senator POMERENE. The ones you have been speaking of here.

Mr. GREGORY. These particular rates were fixed, as I remember it, on February 25, 1919—these particular rates.

Senator POMERENE. That is, by the Director General's office?

Mr. GREGORY. Yes, sir; but the same discrimination prevailed prior to that time, or approximately the same.

Senator POMERENE. Can you tell us what difference there was between the Interstate Commerce Commission's rates and the Director General's rates?

Mr. GREGORY. I do not happen to have those figures with me, Senator.

Senator POMERENE. If you can give them, I wish you would put them into the record.

Mr. GREGORY. Yes, sir. You want the rates prior to June, 1918, or whatever date they were changed?

Senator POMERENE. Yes.

Senator ROBINSON. Tell us whether there is a water rate from New Orleans—is there actual water competition between those points; that is, between New Orleans and Chicago and New Orleans and St. Paul?

Mr. GREGORY. My investigation disclosed this fact: I had a man try to find out, and, of course, we had to go around St. Paul. I was

not in a position to get the records from the railroads, but I did find this: That there had not been any movement that we could locate from New Orleans to St. Paul in the past two years by river. I could not find any traffic that had moved from points south of St. Louis to St. Paul during the past two years, so there is no river competition. That is just a joke, gentlemen; that is just a joke, and that is all there is to it.

Senator ROBINSON. Have you the figures on lumber to those points?

Mr. GREGORY. I have not the figures on lumber.

Senator MCLEAN. Is there marked competition at Chicago with the beet-sugar growers? Do they compete with the Louisiana cane-sugar growers at Chicago?

Mr. GREGORY. Yes, sir; and also in Arkansas; they compete at both places.

Senator MCLEAN. Then, the rate was made to provide competition in the interest of the consumer?

Mr. GREGORY. That is what the railroads say, but it is not a fact.

Senator MCLEAN. Well, never mind; we will assume, for the sake of the argument, that what they say is correct. The question, then, is whether the rates to the intermountain points is a reasonable one or not.

Mr. GREGORY. I will explain that to you in this way.

Senator STANLEY. May I ask you this question? Do you think it is fair to charge an extortionate rate if this rate here is fair? This one is an extortionate rate.

Mr. GREGORY. One of the two must be wrong.

Senator STANLEY. Is it fair to charge an extortionate rate down here for the purpose of giving these people a lower rate on sugar in Chicago?

Mr. GREGORY. No, sir; we are paying the fiddler and they are doing the dancing.

Senator POMERENE. When it comes to the question of the consumer, Senator Thomas has repeatedly told us that beet sugar in Denver, Colo., is produced from beets raised in Colorado and made at the sugar mills there; it is sold at a higher price in Denver, Colo., to the consumer than this same sugar is sold in St. Louis and other interior points, notwithstanding the fact that the sugar manufacturer has to pay the freight from Denver to St. Louis.

Senator STANLEY. Would it not be a good policy on the part of the railroads, in order to get the long haul for the beet sugar in the north, to put a higher rate on the sugar that was adjacent to the cane fields of Louisiana?

Mr. GREGORY. Yes, sir; that is a fact. As I understand this whole sugar situation, it is that they intend to cram this beet sugar down our throats whether we want it or not, and we, in Arkansas—I was not born there, I was born in Iowa—we have gotten in the habit of eating the sugar, and I know these people who were born and raised there are not going to let people cram this beet sugar down their throats when they want cane sugar. They want the cane sugar and they ought to have it.

Senator MCLEAN. They ought to be protected in that regard.

Mr. GREGORY. They have made every effort to keep us from eating it.

Senator ROBINSON. In respect to the attitude of the Railroad Administration, is it a fact or is it not a fact that the railroad administration did not change the relationship between these rates, but merely advanced both rates 25 per cent?

Mr. GREGORY. The United States Railroad Administration in making Order No. 28, as of date June 25, 1918, raised the rate 25 per cent with some exceptions. Sugar was one of the exceptions. In the case of sugar they raised the rate much more than 25 per cent. In other words, the rate at Camden, Ark., was 28 cents, and they raised it to 50 cents. In the case of Little Rock it was 22 cents and they raised it to 42 cents; in other words, nearly 100 per cent.

Senator POMERENE. What was the per cent of raise in each of those cases?

Mr. GREGORY. In this rate it was nearly 100 per cent.

Senator POMERENE. What rate?

Mr. GREGORY. The Little Rock rate.

Senator POMERENE. What was the other?

Mr. GREGORY. The rate was 28 cents, and they advanced it to 50 cents.

Senator ROBINSON. How about the Chicago rate and the St. Paul rate?

Mr. GREGORY. They were about the same proposition.

Senator ROBINSON. They were raised 100 per cent?

Mr. GREGORY. Yes, sir; I understand they were.

Senator ROBINSON. That is the question I am asking, so far as the action of the Railroad Administration was concerned, it preserved the existing disparity or disproportion between the rates?

Mr. GREGORY. Yes, sir; approximately.

Senator ROBINSON. That was my understanding.

Mr. GREGORY. Yes.

Senator ROBINSON. Have you other commodities besides sugar that you can give us an illustration of?

Mr. GREGORY. Yes. I am going to call your attention to grain moving from Cairo, Ill., to Memphis and New Orleans, La. Now, the present rate in effect from Cairo to New Orleans, La., via the Missouri Pacific and T. & P. Railroads, is 12½ cents per 100 pounds; that rate also applies to Memphis. The rate to McGehee is 25 cents, just double.

Senator ROBINSON. McGehee is right near the Louisiana line, in the southern part of Arkansas. What is the difference in distance?

Mr. GREGORY. The distance from New Orleans to McGehee is 387 miles. In other words, McGehee is nearer to Cairo, directly intermediate, by 387 miles, just about half the distance.

Senator ROBINSON. And the rate is double as great?

Mr. GREGORY. Just exactly twice.

Senator POMERENE. You are speaking of railway rates?

Mr. GREGORY. Yes, sir; the all-rail rates published by the Missouri Pacific Railroad from Cairo, Ill., to New Orleans, La., applying via the Missouri Pacific Railroad.

Senator POMERENE. You say "grain rates." What grain?

Mr. GREGORY. I mean corn and oats. That does not apply on wheat.

Senator STANLEY. Right at that point. Does that result in shipment back from these cheaper points of these commodities. In other

words, is there a good deal of grain shipped to New Orleans and then shipped back to the consumer for the benefit of the cheaper rate?

Mr. GREGORY. Oh, yes; naturally there would be.

Senator STANLEY. Do you know what amount of that grain is shipped back?

Mr. GREGORY. No, sir; I have not those figures. Of course I know that there is some of that business, but just what the tonnage amount of it is I could not say.

Senator ROBINSON. Is there actual water competition? There is a water rate from Cairo to New Orleans?

Mr. GREGORY. Yes, sir; via the Mississippi River.

Senator ROBINSON. So that while there is no water transportation from St. Paul to New Orleans, and very little from Chicago to New Orleans, the disproportion is greater, considering the distance, than where the actual water competition exists?

Mr. GREGORY. Yes, sir.

Senator ROBINSON. Although the distance is twice as great in the latter instance and the rate is only one-half?

Mr. GREGORY. Yes, sir; approximately one-half.

Senator ROBINSON. You have taken grain and sugar. Can you use some other commodity as a further illustration? I wish you had the rates on lumber. I at one time went into that, some years ago, but I can not recall definitely enough to state it.

Mr. GREGORY. I can give you a strictly interior proposition where there is violation of the fourth section that might interest you. We will take flour from St. Louis to Texarkana, Ark.-Tex. The rate is 25 cents a hundred. They charge $100 a car to move a car from St. Louis to Texarkana. That is the proportional rate. To Prescott, Ark., as you know, Senator, which is 52 miles nearer St. Louis, and intermediate, they charge 28 cents per hundred pounds.

Senator ROBINSON. Now, can you make some reference to canned goods and groceries and commodities of that character? If you have other illustrations already in your mind, state them.

Mr. GREGORY. Well, I will give you an example here. I will take the first-class rates. I just happen to have this with me. The present rate from St. Louis to Memphis, Tenn., is 81½ cents per 100 pounds. That includes the 25 per cent increase.

Senator POMERENE. On what?

Mr. GREGORY. On first-class traffic.

Senator POMERENE. Between what points?

Mr. GREGORY. Between St. Louis and Memphis, Tenn. So the Frisco Railroad runs down the river, so to speak, a distance of 305 miles, and they charge 81½ cents.

Here is Blytheville, Ark., exactly 235 miles from St. Louis, directly intermediate to Memphis, north of Memphis, on the same railroad, and the rate to that point is $1.02 per 100 pounds. In fact, that rate adjustment is so arranged by the railroads that a man can almost go into Memphis and then bring the stuff back to Blytheville for the price that he could get it from St. Louis direct to Blytheville. Now, in a recent case that I testified in the railroads proposed, as I understand it, to continue this present rate to Memphis of 81½ cents and to make the rate at the first station in Arkansas, directly across the river, only 6 miles away, at Hulbert—they proposed to make that

rate $1.245 per 100 pounds, and then they also turned around and proposed to make the rate from Memphis to this point just exactly the difference. In other words, it just means this: A man can get his stuff into Memphis and then out to this point at just what he could get it in for if he handled it direct from St. Louis.

Gentlemen, I do not know that there is anything further that I care to say. I think you gentlemen understand the situation so far as we are concerned.

Senator POMERENE. In your study of this question, I will just ask you a general question: Are these instances to which you have referred simply exceptional cases, or does that condition exist generally with respect to rates?

Mr. GREGORY. I would say it was general.

Senator Pomerene. In your State?

Mr. GREGORY. Yes, sir.

The CHAIRMAN. Is there any further inquiry of this witness?

Senator ROBINSON. With respect to your illustration with regard to Texarkana and Prescott, there is no water competition which applies there?

Mr. GREGORY. No, sir.

Senator MCLEAN. Is there rail competition?

Mr. GREGORY. Yes, sir; but this discrimination that I complain of there is discrimination on the part of the railroad that has the short line, the Missouri Pacific Railroad. It has the short-line route, just as straight, almost, as a crow can fly.

Senator MCLEAN. There is discrimination against that road?

Mr. GREGORY. No, sir; in favor of Texarkana over Prescott.

Senator MCLEAN. Very likely there may be some rather apparently unreasonable rates now existing in this section.

Mr. GREGORY. Yes, sir; this is one of them.

Senator MCLEAN. I am not defending the director general, and it may be that there are some instances that should be modified. Let us assume, however, that you have got competition between two railroads, for instance, and one of them is 150 miles long and the other is only 100 miles along and here is a competing point. Now, the direct line can carry freight for 50 cents a ton and make money and the long line can not do it that distance. It has got to charge more. Now, you have an intermediate point here where the rate is slightly above the rate at the competing point.

Mr. GREGORY. Slightly?

Senator MCLEAN. Yes, slightly; very slightly above.

Mr. GREGORY. Yes, sir; but no such condition as that exists.

Senator MCLEAN. We will suppose such a condition does exist somewhere in the United States; that the charge for the long haul is a very little below the charge for the short haul, and if the long road did not get that traffice it would be unable to pay its local expenses. Now, what has it to do, provided it has to abandon that long haul, which, we will say, is 10 per cent of its income? What treatment must it prescribe to the intermediate point if it is to pay expenses? Can it lower the rates to the intermediate points?

Mr. GREGORY. There should be a level of rates.

Senator MCLEAN. Just answer my question. It can not very well lower the rates, can it, and be self-sustaining?

Mr. GREGORY. I do not agree with you at all, sir, on that. The property as a whole should be given a level of rates that will enable it to meet its operating expenses or the fixed charges, plus a reasonable profit on the investment, and I do not think it is the economical thing for this railroad line B, so to speak, to be asked to haul this traffic between those two points.

Senator MCLEAN. Just assume that unless it raises its rates to the intermediate points it can not pay its running expenses, provided it loses the business at the competing points. What are you going to do under those circumstances?

Mr. GREGORY. I say not to accept the business at that point if it does not give a reasonable return on the investment.

Senator MCLEAN. Well, we are going to assume that there is some profit and that there is enough profit on the long haul to enable the road to pay its expenses.

Mr. GREGORY. Then, if there is that profit, they can afford to handle any of the intermediate traffic at the same cost.

Senator MCLEAN. We will suppose that income received from the rate at the intermediate point produces 80 per cent or 90 per cent of the money required to run the road and keep it up at the present rates, and it gets the 10 per cent or 20 per cent from the competing points. Now, if it does not get that 20 per cent it is not going to pay its expenses on the exising rates?

Mr. GREGORY. No, sir.

Senator MCLEAN. Your idea is that if it lowers the rate at the competing point that that railroad can continue on a compensatory basis. What is the road going to do under those circumstances?

Mr. GREGORY. The fact of the case, Senator, is that it is exactly the opposite; that they are hauling the freight at these competitive points at less than cost.

Senator MCLEAN. I know; that may be so. Now, if that is so, and I agree with you that it may be so in many of these cases——

Mr. GREGORY. I know it, from 20 years' experience.

Senator MCLEAN. Suppose we establish a minimum rate, and in no instance shall that rate be below a reasonable profit.

Mr. GREGORY. I say there is only one way to do that, and that is to fix the level to care for the property as a whole.

Senator MCLEAN. Readjust all the rates?

Mr. GREGORY. Yes; readjust all the rates and fix that as a minimum.

Senator MCLEAN. When you readjust all the rates, if you lose income on the long haul you have got to raise the rates on the intermediate points or you will not get your money. That is plain.

Mr. GREGORY. Yes, sir; and this bill, or Mr. Goodwin's House bill, combined with the other bill, giving the Interstate Commerce Commission the power to prescribe the rates, will carry exactly the same thing you ask for.

Senator MCLEAN. The Interstate Commerce Commission does not agree with you.

Mr. GREGORY. I can not help that.

Senator POMERENE. May I suggest that the first part of his premise, with all due respect to the Senator from Connecticut, was that they could not haul over the 150-mile route at the same rate as they could haul over the 100-mile route?

Senator McLEAN. At the same cost?

Senator POMERENE. That is what I mean—the same cost. If they can not make anything there is no reason why they should haul it.

Senator McLEAN. Certainly. I agree with you; but if they can make something——

Senator POMERENE. That is a different premise.

Senator STANLEY. You have had 20 years' experience in railroad matters?

Mr. GREGORY. Yes, sir; a little over that.

Senator STANLEY. Are the roads with which you have had experience, most of them, located so that they can make a fair return at normal times on their investment by an equitable treatment of all shippers, and without discrimination to one individual over another, or one locality over another?

Mr. GREGORY. I think they could, if it was done.

Senator STANLEY. If a majority of the roads of this country are so located that they can make a fair return by obedience to the law, ought all of these roads be permitted to disobey the law or to get plenary indulgence from the Interstate Commerce Commission to violate the provisions of section 4, in order that a few badly located roads may still continue to live by illegal practices, that would have to go out of business under a strict obedience to the law as it is written? What is your idea about that?

Mr. GREGORY. I think that the railroads ought to live and die strictly in accordance with the law. If we can not survive that way, well, my opinion is that we ought to close up and go fishing.

Senator McLEAN. If they can not live without the through business, and they lose it, how can you expect to have the rates on the intermountain traffic reduced?

Mr. GREGORY. No one in my 20 years' experience has proven to me yet that that condition does exist.

Senator McLEAN. Assuming that it may exist?

Mr. GREGORY. I can not even conceive such a thing.

Senator McLEAN. Well, you will find out that it does.

The CHAIRMAN. Is that all?

Mr. GREGORY. Yes, sir; that is all I have to say. I thank you gentlemen of the committee.

The CHAIRMAN. The committee will now hear, just a minute, from Mr. Robinson, who desires to file a statement.

Mr. BIRD M. ROBINSON. Mr. Chairman, we feel that perhaps the measure would be very detrimental to the short lines, but we are not prepared to give our testimony at the moment. We want to know if we might be permitted to file a short statement in the record within the next three or four days that will not cover more than four or five printed pages, and if that permission is granted we will not offer any testimony.

The CHAIRMAN. That will be done; your statement will be incorporated in the record.

(The statement referred to is as follows:)

MEMORANDA AS TO THE ATTITUDE OF SHORT LINE RAILROADS ON THE POINDEXTER BILL.

The American Short Line Railroad Association, representing directly and indirectly practically all of the short-line railroads in the United States, is opposed to the passage of the bill under consideration.

We believe it would seriously damage the short-line railroads and the communities depending upon them for service. We believe that when Congress comes to find a way to solve the railroad problem it must necessarily deal with the rate structure. As we see it, the inevitable consequence from the passage of this bill will be to necessitate a readjustment of the rate fabric, which would include a readjustment of divisions of interline rates as between the trunk lines and the short-line roads.

A large number of the short-line railroads, through credit extended by financial concerns in those localities where they are operated, have managed to survive the crisis brought on by the war, but are now on the verge of bankruptcy and must have immediate help or they can not continue as going concerns. Our theory is that the weak roads must have increased revenue through divisions of interline rates. If the general level of rates is readjusted, these roads will necessarily receive less revenue, and if there is a reduction in the volume of traffic handled by trunk lines, the short lines will automatically share in this reduction. If there is a rigid application of section 4, it will necessarily inject the mileage scale into rate construction, and the general level of rates will be reduced to the basis of water competition, or else the trunk lines with longer hauls would withdraw, in which event all short lines receiving divisions from these longer routes will lose a proportion of the revenue now derived from port terminal traffic.

Members of the American Short Line Railroad Association are parties to joint rates with trunk lines made to meet water competition. A large majority of short-line railroads connecting with two routes constitute a link in the longer route to competitive junction points, and every such road will necessarily suffer and its revenues be depleted, either by being required to sacrifice the revenue now received, because the revenues of these short lines will be depleted by a reduction in the revenue received from water competition traffic, or they must sacrifice the revenue to intermediate points by reducing rates at those points to the level of the rates at water competition points.

Concrete cases, typical of short-line railroads which participate in traffic to the ports where rates to the port are less than to the intermediate points are the following:

The Columbia, Newberry & Laurens Railroad participates in traffic at Charleston, S. C., in order to meet water competition from Ohio and Mississippi River crossings and from New Orleans, maintaining rates on the established basis at its local intermediate stations.

The Gulf, Florida & Alabama Railway participates in the rates to Pensacola, Fla., from New York and other eastern cities which are much less than the rates in effect at its intermediate local stations, the rates to the local stations being upon the established basis.

Under strict application of the fourth section these lines would be required to reduce the materially higher rates in effect to their local stations to the basis applied at Charleston or Pensacola, or discontinue their participation in rates to these points.

There are numerous similar examples which may be cited, the above being representative of the loss to the short line in event they are not permitted to participate in the low rate traffic to the port without materially reducing their revenue on the traffic handled to the intermediate points.

In many instances the short-line railroads are parties to joint rates with trunk lines between rail competitive points, the route of which the short-line railroad forms a part. The short-line railroad is usually a link in the longer and more circuitous, and the short line is dependent for its participation in through business on keeping such route open. If this bill is passed, the short-line railroad, which is a party to these longer routes, must suffer depletion of revenue, either through withdrawal from the competitive traffic or by reduction in its intermediate rates to its own local territory.

Short-line railroads can be made profitable only by an increase and not a decrease in the volume of its business; hence any rule which requires it to go out of the competitive business and look to its local traffic alone would be literally ruinous, both to the short-line railroad and the country it is trying to develop.

The new country sought to be developed by short-line railroads can rarely, if ever, bear the whole burden of sustaining the short-line railroad, and if the short line is not permitted to engage in the competitive traffic, its local territory must suffer from rates which would be higher than otherwise would be charged if the short-line railroad is to receive the revenue necessary for its continued

operation. On the other hand, if the short-line road continues to participate in the through traffic to the competitive point under penalty of reduced rate to its intermediate points, the revenues of the short-line railroad will necessarily be so depleted as to bankrupt and drive it out of business. The only way in which these longer routes, in which, or of which, the short-line railroad is a link, or part, have been permitted to handle a portion of the competitive traffic has been through commission's relief of the rigid application of section 4. Examples of participation by short-line railroads in rates to junction points which are lower than rates to their intermediate points, and relief from the fourth section by the Interstate Commerce Commission are the following:

The Macon & Birmingham Railway participates in traffic from Chattanooga, Tenn., to Macon, Ga., via Western & Atlantic to Atlanta, Atlanta & West Point to LaGrange, thence Macon & Birmingham. The rates between Chattanooga and Macon are established by the Southern Railway and Central of Georgia, which is the short line, and the route in connection with the Macon & Birmingham is obliged to apply these rates or retire from the traffic unless they have obtained fourth-section relief, the rates from Chattanooga to Macon & Birmingham local stations being considerably higher than the rates from Chattanooga to Macon in effect via the short line.

The Gulf, Florida & Alabama Railway in connection with the Southern Railway through Kimbrough participates in traffic from Birmingham, Ala., to Pensacola, Fla., these rates being materially less than the rates in effect to Gulf, Florida & Alabama local stations, for the reason that the route in connection with the Gulf, Florida & Alabama can only participate in the traffic by applying the same rates as are in effect via the direct line of the Louisiana & Northwest Railway, Birmingham to Pensacola.

The Tennessee, Alabama & Georgia Railway, in connection with the Western & Atlantic Railroad, participates in traffic from Atlanta, Ga., to Gadsden, Ala., and to so participate must participate in rates from Atlanta, Ga., to Gadsden, which are materially less than the rates from Atlanta to Tennessee, Alabama & Georgia local stations intermediate, for the reason that the rates Atlanta, Ga., to Gadsden, Ala., were established by the direct line of the Southern Railroad, the mileage being materially less than via the route in connection with the short line.

These are representative of the conditions under which short lines are obliged to seek relief from the strict provisions of the fourth section of the act to regulate commerce. If the short lines are required to maintain rates at intermediate points, which are no higher than rates applied to the next more distant points, they will be obliged to materially reduce their revenue to the intermediate points or discontinue participation in the traffic to the common point.

These examples are representative of the conditions which are in effect in connection with practically all short lines of railroad which have connection with trunk lines at their termini or at the intermediate points where the short line may be used as a part of the through route in reaching points competitive with the trunk line. The common points are usually the heavy traffic points, and if they are required to reduce their revenue at the intermediate local stations it will result in heavy loss on that traffic. If they accept the other alternative and retire from the business of the common points it would also mean a heavy loss. The loss in either event would mean bankruptcy.

Examples could be greatly multiplied if it seemed necessary. It may be safely asserted that as much as 80 to 90 per cent of the competitive short-line railroads in the United States, that is, roads which connect with two or more lines under different ownership, falls within the classes or examples above cited.

The attached sketch shows in a simple way the manner in which short-line railroads participate in through rates to junction points. The line from X to B is a short-line railroad and participates in the traffic from A to B through the longer route from A to Y, over the N. E. R. R., from Y to X over the N. & S. R. R., and from X to B over its own railroad.

It is impossible to gve figures showing the amount the short-line railroads would lose through a rigid application of section 4. There are 788 of these roads, located in 44 of the States of the Union, and about one-third of these roads are competitive. The roads that are competitive will suffer, as shown in the examples cited, and those that are not competitive would necessarily suffer by a general disturbance of the rate structure, which we think will be inevitable if this bill becomes a law. The loss to the short-line railroads, we

verily believe, will be sufficient to result in general bankruptcy, thus bringing about a condition with these industries and the communities they serve that will be appalling.

The committee will now take a recess until 2.15 o'clock p. m.

(Accordingly, at 1.55 o'clock p. m., the committee took a recess until 2.15 o'clock p. m.)

AFTER RECESS.

The committee reconvened at 2.15 o'clock p. m., Hon. Albert B. Cummins (chairman) presiding.

The CHAIRMAN. Mr. J. S. Cullinan, of Houston, Tex., who is president of the Texas Chamber of Commerce, has asked that there be put into the record the declaration of principles adopted February 7, 1919, by the National Rivers and Harbors Congress. A part of it refers directly to this subject, and all of it may be said to have some relation to the subject. It is not a very long document, and, without objection, it will be incorporated in the record.

(The declaration of principles above referred to appears in full below, as follows:)

NATIONAL RIVERS AND HARBORS CONVENTION—DECLARATION OF PRINCIPLES.

[Adopted Feb. 7, 1919.]

The National Rivers and Harbors Congress, assembled in the city of Washington at its fourteenth annual meeting and represented by delegates from almost every section of the country, hereby submits the following declaration of its policies and purposes:

THIS CONGRESS IS A NATIONAL ORGANIZATION.

From its inception it has striven to promote the improvement of harbors and interior waterways and for the establishment and maintenance of transportation thereon. At each recurring convention and in the work which has been prosecuted during the interim it has held tenaciously to these primary objects and has entered no other field of activity, unless the same was closely relate dthereto. The congress, through its officers and delegates, has not been actuated by selfish sectional, or partisan motives, but only sought to advance the public welfare. The problem of transportation is one of distribution, and affects every section of the country. Industry and commerce wait upon transportation, and the more universal the facilities, accompanied by cheapness and equality, the greater will be our prosperity.

In effectuating its purposes the congress has sought to disseminate information and to advocate economic propositions which would impress the American people and the Federal Congress. Its work has been in the open. Its success demanded publicity. It has endeavored to provoke thought and to invite intelligent criticism.

COORDINATION OF TRANSPORTATION FACILITIES.

Transportation is the servant of the public. In every form it should be coordinate and not competitive. Each method should be unified and coordinated one with the other. Neither can be neglected or impaired without injury to the other. While primarily this congress seeks to promote transportation by water, yet it recognizes its unity and sympathy with transportation by rail, by highway, and by air. We greet the advent of the airplane and anticipate such a development in aeronautics as will constitute an important factor in transportation.

A SYSTEM OF WATERWAYS.

In so far as may be practicable and feasible, we recommend that such a comprehensive system of waterway improvement and water transportation be de-

vised as will most effectually serve the largest areas of the country. Trunk or through lines of waterway should be given preference, particularly where they intersect feeders or branch lines, thus extending the length of movement by boats between distant termini without breaking bulk. As far as possible, depths of channel should be standardized. The branch lines of communication may usually await the improvement of the through lines of waterway.

JURISDICTION OF NAVIGABLE WATERS.

The United States has jurisdiction of all navigable waterways. It is the duty of the Federal Congress to systematize and improve all navigable waterways upon which commerce may be established. Congress may not escape this imperative duty, which should be performed in such a manner as to serve the public interests. If criticisms of the activities of Congress in the discharge of this duty have been made in the past or shall be repeated in the future, such criticisms do not affect its jurisdiction or duty, but the manner of its performance.

THE USE OF IMPROVED CHANNELS.

We declare as our settled purpose that we advocate only the improvement of such waterways as will be utilized. Appropriations of the public revenues can only be justified upon evidence affording a reasonable assurance that channels so improved will be used for water transportation. No ulterior or secondary result constitutes a sufficient justification. Those who advocate improved facilities of navigation with the expectation only of reducing competitive rates by rail are advocating public expenditures inconsistent with public duty or wise economics. It is axiomatic that an improved channel alone will not of itself invite or promote transportation. Other conditions are essential and must coexist.

WHAT ARE THE ESSENTIALS FOR WATER TRANSPORTATION?

1. There must exist in the territory contiguous to the navigable waterway production, and a demand for distribution, of products in sufficient volume to furnish traffic. If it is a part of a through line of waterway, or if interchange of traffic with the railroads may be anticipated, these factors may be considered. As bulky products are more adaptable to water movement, the proportion of this class will also be an element.

2. An adequate number of boats of appropriate type must be provided. To this end there must be organizations with sufficient capital, managed by men of business capacity and traffic experience to operate these lines of boats. The organization of these boat lines must depend upon the disposition and the spirit of civic enterprise of citizens in the respective sections.

3. We have declared that the waterways and the railways must be coordinated in the public service. This implies a free interchange of traffic which may be carried between points of origin and destination partly by rail and partly by water. Our efficient system of rail transportation has been made possible by a system of interchange and prorating between the several lines of railroads. Such a system, predicated upon sympathetic cooperation, must exist between the railways and the waterways. Wherever this may not be effectuated voluntarily it must be established under compulsion of law, mandatory in its terms and under competent supervision.

4. There must exist in every harbor and at every city and town located upon any navigable waterway adequate water terminals. Any detailed description of such a terminal would seem to be superfluous. It should have ample waterfront, capacious warehouses, modern appliances for transferring freight, and should be physically connected by a belt line with each and every railroad serving the city or community. Under the present policy of our Government such terminals must be constructed and maintained at the expense of the city or community. They should be under the supervision and regulation of the municipality, subject to such superior supervision by the State and Federal Governments as may be necessary in the interest of the general public. The construction of water terminals likewise depends upon the civic enterprise of the several communities. Such terminals are necessary for local traffic by water, but are absolutely essential for interchange of traffic with the railroads.

5. Transportation by water must enjoy unrestricted opportunity for development and growth, and should be free from unjust discrimination from any

source. If lines of railroad parallel to or competitive with any navigable waterway have in the past so unduly reduced rates as to interfere with the orderly operation of boat lines thereon, these rail rates should be readjusted. Navigable waterways are natural lines of communication and are owned by the public and should be conserved and regulated in the public service. Whether the reduction of rail rates competitive with water may be justified in sound economics, it seems perfectly clear that such rates should not be so reduced as to impair or destroy water transportation. If any reduction of rail rates should be permitted, such reduction should afford a differential in favor of the water lines commensurate with the natural advantages of water transportation. We respectfully submit to the Federal Congress the proposition that legislation should be enacted which will prevent destructive methods by railroads competitive with waterways and which will permit both agencies to exist and serve their common master, the American public.

EXISTING LAWS FOR INTERCHANGE OF TRAFFIC.

We repeat the following statement from the "Declaration of Principles" adopted at the meeting of this congress on December 10, 1915:

"We commend existing laws for the regulation of interstate commerce, and particularly the provisions of the Panama Canal act approved August 24, 1912, relating to the joint use of water and rail lines and extending the jurisdiction of the Interstate Commerce Commission. This act provides substantially:

"(1) For the establishment of physical connection, where reasonably practical and justifiable, between the rail carrier and the terminal of the water carrier, by directing either or both of such carriers to construct connecting tracks.

"(2) Authorizing the commission 'To establish through rates and maximum joint rates over such rail and water lines, and to determine all the terms and conditions under which such lines shall be operated, and in the handling of such traffic.'

"(3) Authorizing the commission 'To establish maximum proportional rates by rail to and from the ports to which the traffic is brought, or from which it is taken, by the water carrier, and to determine to what traffic. and in connecion with what vessels and upon what terms and conditions, such rates will apply.'

"(4) And further providing for the divorcing of common carriers by water from the railroads under certain conditions.

"These requirements went far toward eliminating some of the undesirable practices which had existed in our domestic commerce between rail and water carriers."

We regret to state that the above provisions of law have not generally been made effective. To what extent this was due to the ineria of secions and cities tributary to navigable waterways, or to the indisposition of the Interstate Commerce Commission to enforce the law, it would not be profitable to discuss. We recommend, however, that the above provisions of law, which are now permissive, be made mandatory.

FEDERAL SUPERVISION OF WATER TRANSPORTATION.

The slow development of water transportation upon some of our navigable waterways, the failure of local interests to provide adequate water terminals, the absence of interchange of traffic with the railroads and other essentials, and the existing evils militating against water transportation, demand some form of effective supervision and regulation. We recommend that the Federal Congress enact legislation either creating a separate department of transportation, or creating a separate bureau in the Department of Commerce, which shall have jurisdiction to supervise and regulate water transportation. The Interstate Commerce Commission should have enlarged jurisdiction over rail rates and over water rates, under such mandatory terms of law as shall compel the commission so to adjust the rates by rail and water as to enable boat lines to earn a fair profit and to coexist with competitive rail lines.

The principle of potential competition by water as affording justification for the reduction of competitive rail rates should be abolished. Boat lines upon navigable waterways must have an opportunity to exist and operate under the conditions afforded by their natural advantages. Interior sections and communities should not be penalized or discriminated against in favor of other sections located upon navigable waterways. Whatever advantages the latter may enjoy by reason of their contiguity to natural waterways should be ac-

corded to them in the fullest degree through the benefits of water transportation.

THE UNITED STATES RAILROAD ADMINISTRATION.

It is a pleasure to record our gratitude to the retiring and the present director general of railroads for such recognition of waterways and water transportation as have been accorded by them. We express the hope that these activities in this direction may be enlarged, and we bespeak the cordial cooperation of the public in the use of the facilities provided.

ANNUAL RIVER AND HARBOR BILLS.

Since 1910 Congress has enacted annual river and harbor bills. This policy has been a distinct contribution toward the systematic improvement of waterways throughout the country. The improvement of waterways constitutes an essential national activity and should be recognized by annual appropriations to the same extent as other activities of the Federal Government.

THE CORPS OF ENGINEERS, UNITED STATES ARMY.

W are pleased to renew our commendation of the Corps of Army Engineers. The high standard of efficiency maintained by the corps, their engineering skill, and their integrity have been made manifest in their public services. We extend cordial thanks to the present distinguished Chief of Engineers, Maj. Gen. William M. Black, for his presence and his illuminating address at this session.

NATIONAL BOARD OF WATER CONSERVATION.

The Chamber of Commerce of the State of New York has heretofore considerd and adopted a series of resolutions recommending legislation by Congress creating a national board of water conservation, which have been presented to this convention by its accredited representative. We desire to express our sympathy with the purpose sought to be accompiished by the proposed legislation.

[Jos. E. Ransdell, president; S. A. Thompson, secretary-treasurer; 824 Colorado Building, Washington, D. C.]

The National Rivers and Harbors Congress, founded in 1901 and reorganized in 1906, is a voluntary association which is broadly national in its membership, its government, its work, and its purposes.

It does not deal with individual projects, but advocates the systematic, comprehensive, and speedy improvement of all the deserving waterways and harbors of the United States; the provision of adequate terminals, publicly owned or controlled; and constructive cooperation, instead of destructive competition, between railways and waterways.

Many valuable results have already been secured, among them being the passage of river and harbor bills every year instead of once in three years; an increase in the number of Army Engineers assigned to work on waterways; a large increase in the average annual appropriations for waterways and harbors; and much vitality important legislation concerning the relations of railways and waterways.

In the United States the force that controls legislation and determines national action is public opinion. The work of the National Rivers and Harbors Congress consists solely of a continuous nation-wide campaign of education as to the benefits produced by the improvement and use of waterways and harbors.

It has been abundantly proven by the experience of many countries that waterways are creators of prosperity for cities, States, nations—and competing railways.

Being a voluntary association, the Congress is supported entirely by the annual dues of its members and the contributions of those who recognize the value of its work. The cooperation of all who desire to see our national prosperity maintained and increased is earnestly requested.

The greatest possible prosperity can be assured to our country only through the equal development and the harmonious cooperation of highways, railways, and waterways.

Senator POINDEXTER. Mr. Chairman, in that connection I would like to have Mr. Ford, who is present here, state briefly the circumstances

under which that was adopted by the Rivers and Harbors Congress. Mr. Ford was a delegate to that Congress.

STATEMENT OF MR. J. A. FORD, MANAGING SECRETARY, SPOKANE CHAMBER OF COMMERCE, SPOKANE, WASH.

Mr. FORD. Mr. Chairman, there are just two very brief extracts out of this report that I would like to read. One of them is as follows:

> We respectfully submit to the Federal Congress the proposition that legislation should be enacted which will prevent destructive methods by railroads competitive with waterways and which will permit both agencies to exist and serve their common master, the American public.

The other extract is as follows:

> The Interstate Commerce Commission should have enlarged jurisdiction over rail rates and over water rates, under such mandatory terms of law as shall compel the commission so to adjust the rates by rail and by water as to enable boat lines to earn a fair profit and to coexist with competitive rail lines. The principle of potential competition by water as affording justification for the reduction of competitive rail rates should be abolished Boat lines upon navigable waterways must have an opportunity to exist and operate under the conditions afforded by their natural advantages. Interior sections and communities should not be penalized or discriminated against in favor of other sections and communities located upon navigable waterways. Whatever advantages the latter may enjoy by reason of their contiguity to natural waterways, should be accorded to them in the fullest degree through the benefits of water transportation.

Those extracts I wanted to read especially. I want also to call your attention to the fact that those resolutions were adopted at the National Rivers and Harbors Congress, of which Mr. Cullinan, of Houston, Tex., is a director, at the meeting last February. There attended that Congress 472 delegates. Among those were 37 from Illinois, including 12 from Chicago. In that 12 from Chicago was Mr. Robert B. Beach, secretary of the Chicago Association of Commerce, whose traffic manager appears here now in opposition to this bill.

Mr. Beach is head of the Chicago Association of Commerce. These resolutions were adopted with just one dissenting vote—that from Portland, Oreg. There were delegates there from Philadelphia, Louisiana, New York. Pennsylvania had 58 delegates there, and 19 came from Philadelphia, including accredited representatives from the Philadelphia Chamber of Commerce, who voted for these resolutions. The same may be said of New York, and the New York Merchants' Association. They were all business men who were looking to the greater development of the transportation agencies of the country, the utilization of all agencies, and recognized that to do that this evil of destructive competitive rates must be abolished.

I am also requested to hand to the committee this letter from the Barrett Line, of Cincinnati, Ohio, urging the passage of this Senate bill No. 360.

The CHAIRMAN. Without objection, that may be incorporated in the record.

Senator POINDEXTER. The Barrett Line is a boat line?

Mr. FORD. I presume it is. I have not gone into their business. I have had a good deal of correspondence with Mr. Barrett, but I do not know their business, except by their letterhead.

(The letter above referred to appears in full below as follows:)

BARRETT LINE,
Cincinnati, June 6, 1919.

Mr. J. A. FORD,
Care of Washington Hotel, Washington, D. C.

DEAR SIR: As we find it will be impossible to get to Washington for the rehearing of the long-and-short haul bill by the Senate Committee on Interstate Commerce, we write you this letter, that you may read to the committee if you think best or if it will do any good.

In our opinion the great differential between the long-haul rates and short-haul rates has been caused by the competition between water rates and rail rates. This is true in a large percentage of cases. These large differentials were created with the avowed intention and under a fixed policy of the railroads for destroying traffic by river or by steamship, and this end has very nearly been accomplished.

As a result of the railroads' "dog in the manger" policy, it has practically eliminated water-borne traffic. The transportation facilities of this country have not reached that state of development which is necessary for meeting all demands of the country's transportation business, to say nothing of the emergency that may arise under peculiar conditions. A very grievous example of this has been given during the recent unpleasantness in Europe, and it is impossible to estimate just what it cost the shippers of this country, to say nothing of the lives and happiness of the people of other countries when the transportation facilities of the United States proved unequal to the task assigned them.

Nor is this condition for an equalization of freight rates limited solely to the materialistic argument. In our minds there is absolutely no justification for the present system of railroad rating existing in a democratic country, and no reason why a utility should arbitrarily and for its own private interests handicap the citizens and business of one locality to the advantage of another. While it is hard to make freight rates so that each and every locality is on an absolutely even footing, yet the system of rating now enforced is so absolutely unfair and unjustifiable that little argument is necessary along that line.

It seems that there is now a greater sentiment for the revival of water-borne traffic than ever before, and more people are realizing the vast importance of this branch of transportation every day. There are two things necessary for this revival: The first, improved waterways, which is practically assured—in fact, is in existence along almost the full length of the Mississippi River, to say nothing of many of the other rivers of the country. The second requirement for the revival of water traffic is the equalization of freight rates, wiping out the vast differentials caused by rates made with the idea of killing river competition.

With "hand-made and enameled" rivers with a constant current and the most favorable stage of water the year round, river transportation would not become general without the assurance of a living rate, and this assurance can not be given until there is an equalization of freight rates throughout the country.

It is our opinion that the long-and-short-haul bill as presented to Congress in the bill now under consideration by the Senate committee will have the effect of an opening wedge in the reduction of the great freight differentials as they appear to-day.

It is not only because we are engaged in river transportation, but because as American citizens we wish to see the greatest good come to the greatest number of people and equal advantages to all, that we urge the support and passage of the long-and-short-haul bill.

Yours, very truly,

BARRETT LINE.
OSCAR F. BARRETT.
O. SLACK BARRETT.

Mr. J. A. MORGAN. Mr. Chairman, while Mr. Cullinan is president of the Texas State Chamber of Commerce, I am a member of the Texas State Chamber of Commerce, and the cities that I represent are members of the Texas State Chamber of Commerce, and I want it understood in the record that the Texas State Chamber of Com-

merce, as an organization, has not indorsed this memorandum, which is submitted here, and it is not the indorsement of the Texas State Chamber of Commerce as an organization.

The CHAIRMAN. Mr. Martin.

STATEMENT OF MR. B. F. MARTIN, SECRETARY-TRAFFIC MANAGER NATCHEZ CHAMBER OF COMMERCE, NATCHEZ, MISS.

Mr. MARTIN. Mr. Chairman and gentlemen of the committee, I am the secretary-traffic manager of the Natchez Chamber of Commerce, of Natchez, Miss. I appear here as representing that organization, and as a representative of the Vicksburg (Miss.) Board of Trade and the Helena (Ark.) Business Men's League, of Helena, Ark.

I have had approximately 20 years' experience with traffic matters. We appear in opposition to Senate bill No. 360. The reasons why we oppose the provisions of that bill are as follows:

First. It restricts competition between producing markets and limits the territory in which their products may be distributed.

Second. It will eliminate competition between direct and circuitous rail routes.

Third. It will eliminate competition between rail carriers and water carriers.

The question of market competition, Mr. Chairman, has been dealt with at some length by other witnesses, who were in position to give the committee more direct and pertinent information than I would be, and, therefore, I will not deal with the question of market competition, but will confine my remarks solely to the matter of competition between direct and circuitous rail routes, and between water carriers and rail carriers; and while I am testifying I want the members of the committee to have a copy of this map of the eastern half of the United States, which I have drawn off, showing the principal rail lines between the points to which I shall refer, and the principal points located upon water routes. My testimony will have to do with that map, as I go along.

In dealing with the question of competition between direct rail routes and circuitous rail routes, first, the short, direct route from New York to Natchez, Miss., for instance, is through Washington, the line of the Southern Railway through Lynchburg, Bristol, Chattanooga, and Jackson, Miss. That route is made up of parts of four different systems. Other practical routes are in existence, which routes are to-day moving large volumes of traffic, one among which I might mention is that from Washington to Cincinnati by the Baltimore & Ohio, the Illinois Central and Louisville & Nashville from Cincinnati through Louisville to Natchez direct. That route is from 150 to 300 miles longer than the route through Chatttanooga, but it is an entirely practical and logical route for the movement of traffic, and is at the present time moving a considerable volume of traffic.

Our thought is that under the provisions of this bill that line would meet with the necessity of retiring from traffic at Natchez—and when I speak of Natchez I speak of that as typical of other similarly located points—or else of reducing its rates at intermediate points along its route, so as to comply with the provisions of this bill.

Senator FERNALD. Is there any arrangement by which, at points between New York and Natchez on that circuitous route, they charge more for the short haul than they do for the haul all the way to Natchez or all the way to New Orleans, by that route?

Mr. MARTIN. Yes, sir; there are violations of and departures from the present fourth section of the act at many points along that line at the present time—by all of the routes, in fact—but the violations or departures at the present time are based upon water competition, with which I will deal later. This particular illustration that I was pointing out is a case of rail-carrier competition.

Senator FERNALD. What is the difference in the length of the two routes between New York and Natchez?

Mr. MARTIN. The difference in the length of haul between the two I have mentioned, I would say, is approximately, offhand, 200 miles. I have not the exact figures before me. The route through Cincinnati is approximately 200 miles longer than the route through Chattanooga.

Senator FERNALD. And which route carries the greater volume of freight between the two points?

Mr. MARTIN. I would say at the present time it is probably about equally divided; that is, at such points as Natchez. That is probably true of New Orleans also.

Senator FERNALD. Why is that? Why would not the shorter route naturally get the business? It takes less time in transit, does it not?

Mr. MARTIN. Under our present system, or, rather, the system in effect prior to Federal control, there was keen competition between the lines serving terminal points of that character. They desired the business, and their desire to get the business was an incentive for furnishing better service; but both of those routes are perfectly logical. A difference of 200 or 250 miles in a distance of 1,300 miles—which is the distance from New York to New Orleans—is not a very great percentage of indirectness; yet this indirect route, under this bill, would be forced to withdraw from the traffic at the terminal points or to reduce its earnings at the intermediate points.

Now, one of the results of that would be concentration of all of the business on one route, which would naturally bring about more or less congestion; and another result of that bill would be to have idle, in a greater measure, a valuable facility that is capable of performing the service. That facility of transportation would be lying practically idle.

Should the longer line elect to meet the short line's rate at the terminal point, the question of discrimination at an intermediate point on the long route against an intermediate point on the short route would immediately arise—and justly so—for the reason that the shipper at the intermediate point on the long route would receive a greater amount of service—and, necessarily, a more costly service—than would the shipper at the similarly located intermediate point on the short route for the same amount of money. At the present time the short and direct routes are not always the rate-making routes, because of the fact that in many cases between important points the short, direct route is made up of parts of two or more systems, whereas the more circuitous route is composed entirely of one single line.

To give a typical illustration of some of the situations that will be produced under a rigid fourth section I desire to cite a specific case, which may be taken as typical of hundreds of similar situations throughout the entire United States.

For example, the Mobile & Ohio Railroad built its line from the Ohio River to Mobile in 1861, and in the same year the Alabama & Vicksburg Railroad built and east and west line from Meridian to Vicksburg, Miss., intersecting the Mobile & Ohio Railroad at Meridian, and thereby creating the first through rail route from Vicksburg, Miss., to the Ohio River. The Alabama & Vicksburg Railroad and the Mobile & Ohio Railroad immediately began to participate in traffic between Ohio River points and Vicksburg, Miss., and are doing so to-day.

That was in the early days, when there were no railroads, and all of the traffic, of course, was moving by the water routes. The incentive for the building of that route was undoubtedly the ability to obtain part of the traffic at the terminal points, because there was no traffic at that time at the intermediate points.

Approximately 20 years later, or in 1885, the Yazoo & Mississippi Valley Railroad built a line directly north from Vicksburg to Memphis, connecting at that point with a direct line of the Illinois Central from Memphis to Cairo, thereby producing another through rail route between Vicksburg and the Ohio River. That route immediately began participating with that traffic in competition with the Alabama & Vicksburg and the Mobile & Ohio route, and is doing so to-day, the rates by both routes being the same.

The Illinois Central route, being very materially shorter than the Mobile & Ohio route, under a rigid fourth section the Illinois Central route would become the rate-making route, and if the Mobile & Ohio and Alabama & Vicksburg desired to remain in the traffic for which they built into Vicksburg they would necessarily have to meet the rates made by the Illinois Central at Vicksburg and to carry the Vicksburg rate as a maximum at all points on their route between Vicksburg and the Ohio River, bringing about a material loss in their revenue. The alternative of this would be for the Alabama & Vicksburg route to retire absolutely from the Vicksburg traffic, for which it built its line into Vicksburg originally. If it did remain in the traffic by meeting the rates at Vicksburg, the following situation would be brought about: For instance, a point located on the Alabama & Vicksburg Railroad 10 miles east of Vicksburg would receive a transportation service involving an 800-mile rail haul for the same price that would be charged a shipper similarly located on the Yazoo & Mississippi Valley Railroad 10 miles north of Vicksburg for a 600-mile haul. And it might so happen that those two interior points, each located 10 miles from the terminal point, might be in the keenest kind of competition with each other; and, therefore, to carry two rates at those interior points would result in material injury to the shippers located at the one which bore the higher rate.

On the other hand, if the same rates were charged at both of those interior points, cause for just complaint would immediately arise, because the man living east of Vicksburg would receive a service involving 800 miles of rail haul at identically the same price that

the man north of Vicksburg would be paying for a 600-mile haul. It seems to me that it is a question of shifting this alleged discrimination.

Mississippi River crossings are maintained at the following points: Memphis, Tenn.; Helena, Ark.; Vicksburg, Miss.; Natchez, Miss.; Baton Rouge, La.; and New Orleans, La.

At the present time rates are so adjusted as to permit the movement of traffic between the southwest and the southeast through all those crossings on an equalized basis; whereas a rigid fourth section would force all of the traffic through the crossing affording the shortest and most direct route. What I mean by "an equalized basis" is, for instance, that on traffice from Dallas, Tex., to Atlanta, Ga., the rates are made applicable by any and all of these crossings, which permits each of the crossings to perform its part of the transportation service.

I might add that practically all of the rates between the Southeast and Texas and the Southwest in general are made upon combinations of rates to and from the Mississippi River. That is the basis for those rates, and the rates from the Mississippi River west are upon a mileage basis, and a city located in the Southwest shipping to the Southeast, its rates would be made to the Southeast based upon its nearest river crossing. That is the way it is done to-day; but as I said before, the provisions at present allow that traffic to move through any of the crossings at the same rate, regardless of whether the rate is made upon that crossing or not; but under the proposed bill the traffic would have to flow through that particular crossing on which the rate was made, and that would result in congestion at that crossing and idleness of the facilities at the other crossings.

Of all the crossings mentioned, Memphis is by far the most important from a tonnage standpoint by reason of the fact that there are two railroad bridges crossing the Mississippi River at that point capable of handling an enormous tonnage at a minimum of cost, whereas crossing at the other points south thereof is entirely by means of car floats. In times of emergency, such as the European War, the railroad bridges at Memphis would be a most vital and important link in our chain of national defense, and of far more importance than the car-ferry facilities at the other crossings mentioned. The bridges at Memphis represent an investment of approximately $12,000,000, whereas the ferry facilities at Natchez, Miss., with which I am perfectly familiar, represent an investment of, I would say, $100,000—simply the inclines and the car floats—and it is limited in the amount of traffic it can handle, which is also the case with all of the other car-ferry facilities at other river crossings.

In the past, on account of congestion at one of the lower crossings, a large volume of tonnage has been diverted through the crossing at Memphis. Under a rigid fourth section this would be impracticable. The freight would have to move through the crossing upon which the rate was made.

Now, this situation is typical of what would prevail along the river from St. Paul to New Orleans. All of the traffic between the East and West must necessarily cross the Mississippi River, and there is a comparatively limited number of crossings provided.

That would also be true along the Missouri River from Omaha to St. Louis and along the Ohio River from Pittsburgh to Cairo.

The Interstate Commerce Commission has recently prescribed a scale of mileage rates to apply between lower Mississippi River crossings and all points in Louisiana and Texas, uniformly over all lines, and also applicable between points within the State of Louisiana and the State of Texas. In prescribing this rate structure, the commission realized that unless fourth section relief were granted to the circuitous route against the short and direct route, the result would be that either all of the traffic would flow to the short direct route leading from the crossings, or else the scale itself could not be maintained, and uniformity in rates that was desired would thereby be lost.

I should add to that also the rates prescribed by the commission from Memphis into Arkansas and into Oklahoma, and from Memphis into Louisiana. Those cases are of recent decision by the commission. The routes leading from Memphis, for instance, into Arkansas, are both direct and circuitous. The commission in each of those cases said that those rates would apply uniformly over all lines, but with permission to the circuitous route to meet rates at the terminal or junction points made by the direct route, upon the understanding, of course, that the rates would in no instance exceed the mileage scale prescribed. Many typical cases could be cited from Memphis into Arkansas. Take, for instance, the Rock Island Railroad, which is a practical route from Memphis to Fordyce, Ark. It is a one-line haul, but it is a very circuitous route. A more direct route would be by the Missouri Pacific and the Cotton Belt, or the Cotton Belt itself direct—although that is not the short line.

Now, whatever rate results under the mileage scale that the commission prescribed from Memphis to Fordyce, Ark., by the shortest route, that is the rate via all routes; and certainly it would not be a practical thing to prohibit the Rock Island Railroad from participating in traffic between two points located on its own line; yet if we had a rigid application of the fourth section, that is what would be brought about, or else the Rock Island would have to sacrifice its revenues at the interior point. Now, that is a case where the Rock Island is a one-line haul from Memphis to Fordyce; yet it is a very circuitous route. But it seems to me an unfair burden on the Rock Island to force it to retire from the traffic from Memphis to Fordyce, Ark., simply because there is a shorter and more direct route.

Senator McLEAN. In no instance do they allow a higher rate on the longer line? For instance, if one route is 500 miles long and the other is 600 miles long, under the ruling of the Interstate Commerce Commission the rate must be the same for the first 500 miles on both routes?

Mr. MARTIN. Yes.

Senator McLEAN. There is no discrimination there?

Mr. MARTIN. No; the mileage scale is observed as the maximum at all points. The rates are never greater than that.

At this point I wish to mention the fact that the Interstate Commerce Commission has recently prescribed a uniform mileage scale of rates to apply within the State of Louisiana. There has been for many years in force a uniform mileage scale of rates within the State of Texas as has also been the case within the State of Arkansas. In

each of those States there are countless situations just as I have detailed from Memphis to Fordyce, Ark., and in all those cases the custom has been that the circuitous routes have been permitted to meet the short-line rates. That was the only way a uniform mileage scale of rates could be maintained—the only practical way.

Uniformity in rates is certainly to be desired. The commission has labored to that end, and wherever it has been found at all practicable to adhere to that rule it has been done; but it would not be possible or practicable except by some relief from the fourth section, unless we were to prohibit such lines as the Rock Island from participating in traffic such as that I described, between Memphis and Fordyce, Ark., to which I think they are justly entitled. The commission realized that was the situation. The commission has, therefore, granted in those cases a certain measure of relief to the circuitous route.

Now, another result of a rigid fourth section would be to deprive the shipping public of that measure of competition between rail lines which is their only safeguard and hope for the most efficient transportation service. It is pointed out that there is no competition, so to speak, at local points on a line of railroad, and whatever high state of efficiency is maintained by a given line along its entire route, in my opinion, is due entirely to competition, and this competition is met only at junctions or at terminal points.

A rigid fourth section would, in large measure, destroy that competition that now exists at such points, and would virtually destroy competition between the rail lines entirely.

Senator POINDEXTER. How do you figure that it would destroy competition? The railroads would still be there and would be bound to compete?

Mr. MARTIN. Senator, I can not understand how there would be any competition if one level of rates were maintained by one route and another level of rates by the other route. The short route, with the low rates, would certainly be in position to give as quick, if not quicker, service than the circuitous route, and there certainly would be no incentive for a shipper to route his goods over the circuitous route at a higher rate. That would obviously result in retirement of the circuitous route from the traffic, and its retirement from the traffic would mean that there would be no competition between the lines.

Senator POINDEXTER. Your theory is, then, that the short route would put its rates down in order to take the business away from the long route; but if the short route were to put its rates up again, the long route would get into the business again, and consequently there would be competition, either actual or potential.

Mr. MARTIN. Do you mean that the short route would bring its rates up to the rates of the long route?

Senator POINDEXTER. No; but as long as those two routes were there, there would be competition, actual or potential, between them, even assuming your theory to be correct.

Senator WATSON. Then, Senator, the traffic would be on a mileage basis, but there would still be competition between the two routes?

Senator POINDEXTER. Absolutely. If the short route made an unduly high rate, the long route would come in and get a share of the business; and, in order to prevent that, according to this witness's

theory, the short route would keep its rates down, and the reason it would do that would be on account of the existence of the long route there ready to compete at any time the short route tried to raise its rates.

Mr. MARTIN. I am afraid I did not make myself clear to you, Senator, if that is the inference you got.

Senator MCLEAN. The Interstate Commerce Commission has something to do with the making of rates.

Mr. MARTIN. Yes.

Senator WATSON. That is what I wanted to get at. Just take your first illustration from New York through Louisville, Ky., and then by the river route to Natchez, and your other illustration from New York by the short line to Natchez; under this scheme, if there were violations of the fourth section, or if this new section as proposed by Senator Poindexter were to become the law, could they maintain the same rate?

Mr. MARTIN. I do not think so.

Senator WATSON. In other words, it must be on a strict mileage basis, according to your view?

Mr. MARTIN. Evidently, Senator, I have not made my position clear to you. I assume it would be possible to carry the same rates between New York and Natchez by the two routes; but if you did that, you would have a lower level of rates on one route than you had on another route, thereby bringing in the question of discrimination, because the shippers on the Illinois Central, which is the long route, would get a thousand miles of service, and would pay for that service identically the same amount of money that a shipper living on the other route would pay for two-thirds of that distance, and that would give rise to complaint.

Senator POINDEXTER. And you think that would be a very bad situation, do you?

Mr. MARTIN. Well, that illustration is hardly applicable to that point, but there are many others where there are lines paralleling each other for a distance of a hundred miles, and reaching markets 500 miles beyond. The illustration just given was not quite to the point that was brought up.

Senator MCLEAN. We have got to assume that the Interstate Commerce Commission will fix the rates on both routes?

Mr. MARTIN. I wanted to cover that just at this point, Senator, if you please.

Senator MCLEAN. Go ahead.

Mr. MARTIN. I wanted to cover that by an illustration, where they have recently done that. Let us take from Natchez, Miss., to Monroe, La.—a distance of 100 miles by the short and direct route. The Interstate Commerce Commission has very recently prescribed what the rate shall be from Natchez to Monroe.

Now, at the present time that rate applies via two or more different routes. It applies via one route which is 50 miles longer, and on that 150-mile route there are departures from the fourth section. Now, the commission having fixed a rate from Natchez to Monroe for 100 miles, under a rigid application of the fourth section no road could charge more than that without reducing all of its rates at interior points, which would destroy the uniform scale of rates which has been set up there as the proper scale for the public good

in that State. If they did not reduce their rates, under this bill as proposed, by the circuitous route, necessarily they would have to retire from the traffic at Monroe, which would mean the elimination of competition that now exists. There are three routes, and we have that many chances for good service. The Missouri Pacific from Natchez to Monroe is a direct route. If that line gets unruly and does not give us the service we think we are entitled to, we say, "We will ship by the Y. & M. V. through Vicksburg." Now, that is an element which I think it is essential for us to save to the shipping public if we expect to have good service in transportation.

Now, the constant demand of the public since Federal control of the rail lines has been to have the carriers return to their owners and competition restored just as quickly as possible. One of the complaints that we hear continually is the absence of competition under the present system.

Senator STANLEY. Let me say, Mr. Martin, that we have two roads running between points A and B. Let us call the roads X and Y. Now, the short line X is 100 miles long. The long line Y is 140 miles long. Do you deem it better, as an economic proposition, that the Interstate Commerce Commission should allow the long line to charge the same rate between its terminal points as the short line; that it is better to do that than to permit the long road to charge a little higher rate, based on mileage between those two points? In other words, is it better to serve the terminals or to protect the intermediate shippers?

Mr. MARTIN. Senator, to that I would say that the circuitous route in your illustration, being 40 miles, or 40 per cent, longer than the direct route, is quite a circuitous route.

Senator STANLEY. I have taken an extreme example because I wanted to get your idea.

Mr. MARTIN. I do not know whether I would undertake to express an opinion as to just where the line should be drawn with respect to how far circuitous routes should be permitted to compete. The Interstate Commerce Commission has in quite a number of instances said that where a circuitous line was more than 15 per cent longer relief would not be given under the fourth section as it now stands.

Now, I do not undertake to say whether it should be 15 per cent, 20, or 25 per cent; but I do know this, that this circuitous line Y, in your illustration, having its rails and its facilities into both terminals, is going to operate its trains into both of those terminals; and as long as it has a train running from A to B, if it can put a carload of freight at A and haul it to B, while it is serving its patrons at interior points at reasonable and fair rates and can make a certain measure of profit on the haul from A to B, which would be absolutely lost to that line if it were not permitted to do that, I would say that sound economic policy would dictate the granting of permission to that line to meet that competition, but as to whether it should be permitted to do it if it were 40 per cent longer, I would not care to say, because I have not given very much consideration to that particular question. I would say, though, unhesitatingly, if it were 10 or 15 or 20 per cent longer, it should be permitted to meet it.

Senator STANLEY. I do not want to get too far away from the main subject, but do traffic men—railroad men generally—take it as

a premise from which all deductions are made, that the Interstate Commerce Commission, having taken control of rates after the roads, most of them, were established, it is the duty of the Interstate Commerce Commission to so regulate rates and to so regulate the operation of trains, in the interpretation of the long and short haul clause, as to preserve as going concerns all existing railroad systems and lines of railway, without regard to the wisdom or unwisdom of their establishment in the beginning, as an economic proposition?

Mr. MARTIN. Senator, I am not a lawyer, but I have certain personal convictions about things of that sort. These carriers were led to build these lines, and if they were located unfortunately, they may not have been personally to blame for it. Maybe we, as citizens of the United States, influenced them. I know that was the case in many instances; that they were given bonuses to build lines, and that the people who lived in certain localities asked them to come there and build a line. Now, they have a right to some protection for their properties; and I do not think it is fair, if we can meet the situation in any other way, to simply take their property values away from them by legislation—which this thing would be doing.

Senator STANLEY. If a road was built on the bonus basis, and if those communities that are served by that road were willing in the beginning to offer those bonuses, ought not those communities to be willing to pay a higher rate per ton per mile than the community that is located upon a road naturally more advantageously situated, which was established on sound business principles in the beginning? If a lot of communities succeeded in inducing a railroad to build a line around Robin Hood's barn, ought not those communities to pay more for their service than communities that are on a direct line?

Mr. MARTIN. I do not know that I understand just what your question is, Senator, but I will say this——

Senator STANLEY (interposing). Here is the point of my question: Here we have a direct line from A to B, 100 miles long, and it is a part of a system 1,000 miles long. Now, the public generally is interested in economical transportation as well as in ecomonical production, and the establishment of a road that is indirect in its course and costly in operation, if operated by the Government or by Government agencies, is a tax on all the individuals who wanted to be favored by having the road go out its way in order to get to them, that community, it strikes me, ought to be willing to pay more for its service, rather than to compel the enforcement of a pernicious economic principle over the whole United States, in order to keep that road alive.

Mr. MARTIN. I would like to say this, Senator, in answer to that: Take the illustration that I mentioned a few moments ago—the Alabama & Vicksburg, and the Mobile & Ohio Railroads, from the Ohio to the Mississippi Rivers, a very circuitous route. Now, I am sure that route was established for the express purpose of participating in the traffic at the terminals. It, of course, had in view the future development of the interior—and it has developed. Along that road now there are numerous large cities. Meridian, Miss., since that line was built, has grown to be a city of 30,000 or 35,000

people—much larger than Vicksburg, which is one of the terminals, although I do not believe its commerce is any larger.

Now, then, later on came the Yazoo & Mississippi Valley Railroad and built a line north from Vicksburg to Memphis, which connected at that point with the line of the Illinois Central Railroad from Memphis to Cairo, thereby creating another through rail connection between Vicksburg and the Ohio River.

Senator POINDEXTER. They built the circuitous route, according to your testimony, in order to get the benefit of the traffic at the terminals?

Mr. MARTIN. I have no doubt but what that is correct, Senator, because there was no traffic at the interior points at the time those roads were built. That is also true of the transcontinental lines; there was no traffic on the great American desert at the time they were built.

Senator STANLEY. In that event, the railroad serving the terminals would be, in a way, penalized if this long and short haul clause were repealed. The construction of a road of that kind would inevitably result in a greater charge between the terminals, because the Interstate Commerce Commission in making its rates would be bound to make them such as would keep the longer line alive, and the two terminals, instead of being benefited by this circuitous route, would be hurt by it?

Mr. MARTIN. That is just the point, Senator, but I am afraid that you and I are thinking about two different things. Mind you, at the present time the circuitous route meets the short line rates at the terminal, and participates in that traffic, and it has shown to the Interstate Commerce Commission that there is a certain measure of profit in it, and it is a very considerable volume of business. Now, at the same time it hauls its traffic to the interior points at normal figures, and makes its normal and reasonable profit—those figures themselves having been prescribed by the Interstate Commerce Commission as reasonable and fair for the service they perform.

Senator POINDEXTER. That is at the terminal point?

Mr. MARTIN. No, Senator; at the interior points.

Senator POINDEXTER. And at the terminal points, too?

Mr. MARTIN. Oh, yes.

Senator POINDEXTER. If they built the line to get the business at the terminal point, of course, there is a profit in it.

Mr. MARTIN. The circuitous line is meeting the short-line rate at the terminal point, and at the same time it is hauling its traffic to the interior point at a normal rate. The Interstate Commerce Commission has said that the rate from the Ohio River to Meridian, Miss., was reasonable and proper for the service given to the shipper at Meridian. Now, that line is permitted to participate in this traffic at Vicksburg, although there is not that same measure of profit in the traffic handled at Vicksburg that there may be in the traffic handled at Meridian.

Senator POINDEXTER. Yet there was enough profit in it to induce them to build the line for the purpose of getting that traffic at the terminal?

Mr. MARTIN. But they had no idea that Senator Poindexter would ever introduce this bill when they built it.

Senator POINDEXTER. This bill does not interfere with them at all. It would not require them to lower their rates at the terminals. If it had any effect at all it would require them to increase their rates.

Mr. MARTIN. I say that, absolutely.

Senator POINDEXTER. According to your theory, they were built to compete with the water lines, and there was so much profit in it that they were induced to build them, and yet you say they could not compete?

Mr. MARTIN. If you will pardon me a moment, I think you are dealing with water competition, and I was dealing with circuitous and direct rail transportation; not with water competition at all—although the points selected are water points, which I will deal with later; but these present illustrations deal solely with direct rail routes versus circuitous rail routes.

Now, finishing my answer to Senator Stanley, if this bill becomes a law the Alabama & Vicksburg Railroad will have to retire from the traffic for which its line was built into Vicksburg. That would be the result, because if it did not retire from the traffic between the Ohio River and Vicksburg it would have to carry the Vicksburg rates as maximum rates at all points in the interior; and if it attempted to apply the same measure of profit that it gets out of Vicksburg traffic, to all of the traffic that is handled by that line, it would not be able to earn enough to operate, so that it would necessarily have to go out of the Vicksburg traffic. And whatever little measure of profit it is now making on the Vicksburg traffic it would have to find at some other place, and there is no other place to get it except by advancing the intermediate rates.

Senator STANLEY. Would not the difference in time compensate for the slight difference in cost of service?

Mr. MARTIN. If the routes are very circuitous, Senator, doubtless the question of time would be a factor; but for ordinary needs on the route from New York to New Orleans, for instance, where the circuitous route is only 200 or 300 miles longer, the difference in the time of the movement of a carload from New York to New Orleans by the one route as against the other would be inconsequential. It would not be an element that would compensate.

Senator STANLEY. Would a congestion on one line involve congestion on all lines between the same points?

Mr. MARTIN. I beg your pardon, sir; I did not get that.

Senator STANLEY. Let us say that you have half a dozen roads serving two competitive points—say between Louisville and Nashville, where there are half a dozen roads.

Mr. MARTIN. Yes.

Senator STANLEY. Each originating freight at Louisville and delivering it at Nashville, or vice versa. Now, if there is a congestion on the Louisville & Nashville Railroad, let us say, does it necessarily follow that there will be a congestion on the Southern Railway?

Mr. MARTIN. Quite to the contrary. If congestion has been brought about by an excessive volume of traffic on the short line the contrary would be the case.

Senator STANLEY. If the Louisville & Nashville, say, were congested because of the fact that it is slightly the cheaper route, the

other line would be free to make up in time what was lost in the cost of transportation, if there were no great difference in the distance? Would that not work out automatically and tend to relieve congestion?

In other words, when there was a congestion on the shorter route the shippers would be willing to pay a little more to get their freight through by the longer route, would they not?

Mr. MARTIN. Undoubtedly they would, if that congestion were of such nature as to seriously delay the movement of traffic over the short route.

Senator MCLEAN. Would the long route be likely to take the traffic if it were going to lose money on it?

Mr. MARTIN. No, sir.

Senator STANLEY. I am assuming that the longer route would be hauling it at a higher rate.

Mr. MARTIN. Yes; but, having a very small volume of traffic, their proportion of cost to the volume of traffic would be materially higher than that of the road which got the bulk of the traffic, because, generally speaking, the costs of handling traffic go down in certain proportion to the volume of traffic, as it increases; and so the weaker line, even though it did get an occasional car, might be confronted with the necessity of taking an engine and just one car and hauling it 25 miles, whereas it could just as easily have hauled 25 or 30 cars. At any rate, I have an idea that the owners of the short and direct route, when they found they were being congested with traffic, would probably enlarge their facilities, and that line would constantly become more able to handle the business, and the weaker line would constantly become weaker and less able to handle the business. I think that would be the result of it.

Senator STANLEY. Would the elimination of lines between competitive points that are so circuitous that they would lose in that way materially affect the transportation system of the country?

Mr. MARTIN. Yes, sir; I would say so.

Senator POINDEXTER. The first line that was built to the Pacific coast was a long line, and they established certain rates. After that there were short lines built, and they established the same rates that the long line had; and there was money in it for the long line, and certainly there was more money for the short line. The actual condition is entirely different from the theory that you have advanced here. Instead of the rates going down so that the long line could not make money, they are all making money on the rates, both the long and the short lines.

Mr. MARTIN. In the past, Senator, these roads have all competed for the business; but we are dealing now with the situation we would have if the long line were not able to compete for the business.

Senator POINDEXTER. You are dealing with a theory and I am dealing with an existing fact.

Mr. MARTIN. But your fact is not a parallel for the theory that I am advancing.

Senator MCLEAN. All of the railroads are making money, are they not?

Senator POINDEXTER. All of the railroads to the Pacific coast are making money. The Northern Pacific is one of the longest lines and it is one of the most profitable roads in the United States.

Mr. MARTIN. If there are no further questions at this time, I will continue with my statement.

The CHAIRMAN. Proceed.

Mr. MARTIN. Even though it be granted that Federal control of rail lines has not had a fair trial, unquestionably the great mass of shippers generally are convinced that the most efficient transportation service is possible only through rail competition, and inasmuch as this element has been totally destroyed during Federal control, they are insistently demanding that it be restored just as early as possible. If they are opposed to the destruction of rail competition by Government ownership or control, obviously they are opposed to the destruction of rail competition by any other governmental action; yet a rigid fourth section would unquestionably produce that result in large measure.

Dealing now with the question of competition between rail lines and water lines, I desire to call the attention of the committee to the map of the eastern half of the United States, which was submitted a few moments ago and which shows the Great Lakes, the Atlantic seaboard, the Mississippi, the Ohio, and the Missouri Rivers, and the Gulf coast line. I have not attempted to put the rail lines on there accurately; I simply have drawn direct lines between the important water points that are shown there, just to be used as a means of illustration. There are direct lines between all the water points.

Prior to the building of the rail lines traffic moved almost exclusively by water. The Mississippi River carried an immense tonnage in the early days. In the year 1880 considerably over 1,000,000 tons of freight was handled on the Mississippi River between New Orleans and St. Louis. The first rail lines built in the South began at the Mississippi River and extended into the interior, having for their object the handling of traffic to and from the river for distribution into the interior. That is the history of the building of railroads in the Mississippi Valley. Later on other rail lines, building from the Ohio River south, met the rail lines that had been built from the Mississippi River east, as in the instance of the Mobile & Ohio and the Alabama & Vicksburg Railroads, in the year 1860, thereby producing through rail routes between the Mississippi and Ohio River points. The traffic in those days existed largely along the watercourses and these rail lines were induced to build for the purpose of serving communities along these courses. Obviously they were expected to compete with water carriers, which they did and are doing today. I want to add that the traffic existed along those watercourses because of natural reasons—it was natural for it to exist there. We began our commerce at the water. It began there, and our first industries were located on the water and before the coming of rail transportation water commerce had grown to considerable proportions in the United States.

Now, had these rail lines foreseen that this Government would not permit them to participate in the traffice at these water points, it is extremely doubtful if these rail lines would have been built at all.

Mind you, the level of rates that now prevails along the Mississippi River—and I am speaking now particularly of the Mississippi River Valley—the present level of the rates is very materially higher than it has been, on account of the recent increase in rates all over the country. All of the rates are materially higher; but the

point I wanted to show to the committee was the fact that when these rail lines were built along the Mississippi River, an immense volume of tonnage was then going by boats along the river. From the year 1860 those boats operated continuously, handling an immense volume of traffic, even down as late as 1890, or somewhere along in that time. The rail lines operated under that competition and at the reduced rates that were in effect for 30 or 40 years. The rates of the rail lines may have had a material influence in driving the old steamboats off the Mississippi River, but I have heard it said by students of that situation that probably the steamboat lines themselves, by their inefficient methods of operation, were responsible in large measure for that—probably in as large measure as was the level of the rates.

Now, to repeat; had these rail lines foreseen that this Government would not have permitted them to participate in the traffic at these water points, it is extremely doubtful if they would have been built at all; whereas having been permitted to participate in the traffic at water points, it was sufficient to induce them to extend their lines into the interior, thereby developing new territory. The point that I wanted to make there was this: That probably the interior territory owes a part of its development to the assistance that the water carriers at river points gave them in assisting the rail lines to build into and to develop the interior.

Senator McLEAN. You think there might not be any railroad to Reno to-day if somebody had not wanted to get to the Pacific coast?

Mr. MARTIN. I doubt, Senator, if it would have been built as early as it was. It might have come along at some day, but undoubtedly the prime motive behind the building of the Union Pacific and the Southern Pacific Railroads was to get to the Pacific coast and to participate in the traffic that was then in existence on the Pacific coast; but the building of those lines has tended to the development of the interior section of the country, so that the traffic to-day into and out of it is of consequence; and that, of course, could be foreseen, undoubtedly, by those pioneers in railroad construction. They foresaw that eventually that section would be developed, and would be a revenue producer; but if they had had to depend entirely upon building their rail lines into that country and waiting until the country developed before they could get a living out of them, it is doubtful that they would have built them as early as they did.

In the territory served by this line there is produced annually approximately 2,000,000 bales of cotton. By reference to the map it will be noted that this line touches the Mississippi River at various points. At no point is it any great distance from the Mississippi River. Prior to its building, all of the cotton produced in this section moved by boat to the various river points mentioned, and particularly to Memphis and New Orleans. Cotton is the principal tonnage of this line.

Some years ago when the boll weevil first made its appearance in that section, it practically wiped out the cotton crop, and this line, had it not been for its connection with a stronger line serving a different character of country—that is, the Illinois Central Railroad—doubtless this railroad would have been in the hands of a receiver long ago, because it was dependent, in large measure, for its support upon the cotton industry, and that was practically wiped out for a

few years after the appearance of the boll weevil. It is now coming back into its own again, and normal crops are being produced. At the present time cotton boats are operating between Greenville and New Orleans during the cotton season, and a considerable amount of cotton is still being moved by river.

The only way the Yazoo & Mississippi Valley Railroad has been able to handle any material part of this 2,000,0000 bales of cotton has been by making rates in competition with boat lines along the Mississippi River. If it were deprived of its cotton tonnage it is doubtful if this road could survive and maintain the efficient service it does, on the meager tonnage that would be left. It operates good service to all of its interior points, and my contention is that it is enabled to do that by reason of the support it gets from the tonnage it derives at the river points. To force the Yazoo & Mississippi Valley Railroad to retire from the cotton traffic at river points would be of no benefit to the points at the interior; on the other hand, it is quite likely that the interior local points would be called upon to bear increased transportation burdens in order to make up for the loss of that measure of net revenue that the Yazoo & Mississippi Valley Railroad is able to obtain by handling cotton at river points. The question of water competition along the Mississippi River was the subject of very exhaustive investigation by the Interstate Commerce Commission during the year 1912, and its findings are embodied in its report (30 I. C. C., 153), with which this committee is doubtless familiar. And at this point I want to say that that was one of the cases where the commission gave fourth-section relief, based largely upon potential water competition. The commission, since that time, has adopted an entirely different policy, in a case decided January 16 of this year, and a case with which I am very familiar, involving rates from lower Mississippi River crossings into the State of Louisiana, the rates from New Orleans, for instance, to Shreveport, La., which is located on Red River, and formerly all of the traffic to and from Shreveport moved by the Red River and the Mississippi River by boat.

There are 4,000 miles of navigable streams in the State of Louisiana that have at some time in the past borne considerable volumes of traffic. Practically none of those streams are to-day in use. There is a rail line paralleling the Mississippi and the Red rivers from New Orleans to Shreveport, a distance of 300 miles. That is the L. R. & N. Railroad. In the case in question the propriety of continuing water-depressed rates at Shreveport from New Orleans was under consideration by the commission. The L. R. & N Railroad put up a vigorous plea that it would be impossible for that line to continue in business if the rates were advanced from New Orleans to Shreveport, because of the potential water competition that did exist along the river. The Interstate Commerce Commission denied that plea, and advanced the rates to the normal level at Shreveport.

Senator ROBINSON. In the case you referred to a moment ago, Mr. Martin, where you said it was one in which the Interstate Commerce Commission had granted fourth-section relief, because of potential water competition—are those rates still in force?

Mr. MARTIN. They are, with the exception that they have been increased uniformly 25 per cent under the recent order.

Senator ROBINSON. That is what I meant, of course.

Mr. MARTIN. Yes, sir; they are still in force.

Senator ROBINSON. So that the commission, in its construction and application of the fourth section, has applied or recognized the principle of potential water competition, and the rates that went into effect by reason of that recognition are still in force, in some instances?

Mr. MARTIN. They are.

Senator ROBINSON. Have the rates been revoked in any instance where they were put into effect, based upon potential water competition?

Mr. MARTIN. They have, I think. I will say this, that every one of the rates where relief was granted along the Mississippi River, are now before the Interstate Commerce Commission for review; for instance, the rates between St. Louis, Cairo, Memphis, and New Orleans, which are lower than the rates at intermediate points, based on water competition, are now before the Interstate Commerce Commission for determination as to the propriety of continuing that system in existence.

Senator ROBINSON. The commission, then, has not determined that it will not recognize potential water competition in applications growing out of the fourth section?

Mr. MARTIN. I think, Senator Robinson, it has. Within the last 10 days the Interstate Commerce Commission handed down its decision in the case of the Earl Cooperage Co. *v.* St. Louis, Iron Mountain & Southern Railway Co., reported in volume 53, page 295.

Senator ROBINSON. Does that decision amount to a reversal of its decisions in former cases?

Mr. MARTIN. I will say it is not the same policy that was pursued in the case I cited before.

Senator ROBINSON. I understand that and I am not antogonizing your proposition at all. I am trying to get at the facts as to whether or not it is true that the Interstate Commerce Commission, in granting relief under the fourth section has, in some instances, recognized potential water competition and in other instances refused to do so?

Mr. MARTIN. Four or five years ago they did in many instances recognize potential water competition, but at the present time that is not the policy of the Interstate Commerce Commission, as I understand. They have in the recent past denied relief based upon that contention.

Senator ROBINSON. If that be true, it implies that the rates which were permitted, in recognition of potential water competition, ought to be changed, and promptly changed?

Mr. MARTIN. I have not any doubt but that the Interstate Commerce Commission will do that very thing in some of these cases that are now before it, involving those same questions that had been originally passed upon. For instance, the rates along the Mississippi River between Memphis and New Orleans. In 1912 the commission granted relief there based upon potential water competition. That same case is now before the Interstate Commerce Commission for review, and I have not much doubt but what they will insist that potential water competition is no more excuse for lower rates there than at intermediate points.

Senator ROBINSON. You have reached that conclusion from the case you cited a while ago, have you?

Mr. MARTIN. Yes; and numerous other cases.

The CHAIRMAN. I fear we will have to ask the witnesses to condense their statements more. It is utterly impossible for us to sit here and go through with all these witnesses if we are to indulge in so much discussion. This witness has been on the stand here an hour or more, and there are so many others waiting that I will have to ask him, unless the committee thinks otherwise, to try to condense his statement, and if you have a written statement, Mr. Martin, that could be introduced into the record——

Senator FERNALD (interposing). Can we not give each witness so many minutes?

Senator McLEAN. You can put the balance of that into the record.

The CHAIRMAN. There is really nothing gained by so much repetition.

Mr. MARTIN. Senator, I think I can cut out a good deal of this if you will permit me to put it in the record later. I will be glad to do that.

The CHAIRMAN. Yes. I think every one of us understands clearly the view taken by Mr. Martin, and the illustrations he has given are all pertinent and illuminating.

Mr. MARTIN. There are only one or two more thoughts that I want to bring to the attention of the committee. Looking at the map again, it will be noted that all of our important cities are located upon navigable waterways, and the property values are there. I think the committee should take into consideration the disruption of trade relations, the loss in property values, to the poorly located carriers, and all those things in arriving at its conclusions upon this question.

Now, there is one other thought. Most all of our States have a fourth section provision of some sort, and relief is granted within those States. A rigid application of the fourth section on interstate commerce would seriously conflict with the relief that has been granted in those States at present.

The CHAIRMAN. Very well, Mr. Martin. You may add the balance of your prepared statement to the record.

Mr. MARTIN. Thank you, Senator.

(Mr. Martin's statement is as follows:)

The interests that I represent are opposed to a rigid fourth section of the act to regulate commerce for the following reasons:

First. It restricts competition between producing markets, and limits the territory in which their products may be distributed.

Second. It will eliminate competition between direct and circuitous rail routes.

Third. It will eliminate competition between rail carriers and water carriers.

In dealing with the question of competition between direct and circuitous rail routes between two different points, and also the question of competition between rail lines upon the one hand and water lines upon the other hand, I have prepared a map of the eastern half of the United States, showing the Great Lakes, Atlantic and Gulf Coast lines, the Mississippi, Ohio and Missouri Rivers, and in addition thereto, the prinicpal cities located thereon, together with their direct rail connections, and would like to direct the attention of the committee to this map as I proceed with my testimony.

The short, direct route from New York to Natchez, Miss., is through Washington, the line of the Southern Railway, through Lynchburg, Bristol, Chattanooga, and Jackson, Miss. Other routes, equally as practical, exceed the

distance of the short route from 150 miles to 300 miles. The Baltimore & Ohio, through Cincinnati, and the Illinois Central, is a logical route, and a route over which a large volume of traffic is moving at the present time. Under a rigid fourth section of the act, the Cincinnati route being 150 miles greater than the short route, the longer route could not participate in the traffic without a material sacrifice of its revenue at intermediate points. If it did not elect to meet the short line rates at this sacrifice, all of the traffic would flow to the short route, thereby tending to produce congestion on the short route, with a consequent depreciation of tonnage and increasing idleness of facilities via the longer route and elimination of competition. Should the longer line elect to meet the short line rate at the terminal point, the question of discrimination at an intermediate point on the long route against an intermediate point on the short route would immediately arise, and justly so for the reason that the shipper at the intermediate point on the long route would receive a greater amount of service and necessarily a more costly service than would the shipper at the similarly located intermediate point on the short route for the same amount of money. At the present time the short and direct routes are not always the rate-making routes, because of the fact that in many cases between important points the short, direct route is made up of parts of two or more systems, whereas the more circuitous route is composed entirely of one single line.

To give a typical illustration of some of the situations that will be produced under a rigid fourth section, I desire to cite a specific case, which may be taken as typical of hundreds of similar situations throughout the entire United States. For example: The Mobile & Ohio Railroad built its line from the Ohio River to Mobile in 1861, and in the same year the Alabama & Vicksburg Railroad built and east-and-west line from Meridian to Vicksburg, Miss., intersecting the Mobile & Ohio Railroad at Meridian, and thereby creating the first through rail route from Vicksburg, Miss., to the Ohio River. The Alabama & Vicksburg Railroad and the Mobile & Ohio immediately began to participate in traffic between Ohio River points and Vicksburg, Miss., and are doing so to-day. Approximately 20 years later, or in 1885, the Yazoo & Mississippi Valley Railroad built a line directly north from Vicksburg to Memphis, connecting at that point with a direct line of the Illinois Central from Memphis to Cairo, thereby producing another through rail route between Vicksburg and the Ohio River. This route immediately began participating in that traffic in competition with the Alabama & Vicksburg and Moble & Ohio route, and is doing so to-day, the rates by both routes being the same. The Illinois Central route being very materially shorter than the Mobile & Ohio route, under a rigid fourth section, the Illinois Central route would become the rate-making route, and if the Mobile & Ohio and Alabama & Vicksburg desired to remain in the traffic for which they built into Vicksburg, they must of necessity meet the rates made by the Illinois Central at Vicksburg, and carry the Vicksburg rate as a maximum at all points on their route between Vicksburg and the Ohio River, bringing about a material loss in its revenue. The alternative of this would be for the Alabama & Vicksburg route to retire absolutely from Vicksburg traffic for which it built its line into Vicksburg originally. If it did remain in the traffic by meeting the rates at Vicksburg, the following situation would be brought about, viz: For instance, a point located on the Alabama & Vicksburg Railroad 10 miles east of Vicksburg would receive a transportation service involving an 800-mile-rail haul, for the same price that would be charged a shipper similarly located on the Yazoo & Mississippi Valley 10 north of Vicksburg, for a 600-mile haul.

Mississippi River crossings are maintained at the following points: Memphis, Tenn.; Helena, Ark.; Vicksburg, Miss.; Natchez, Miss.; Baton Rouge, La.; and New Orleans, La. At the present time rates are so adjusted as to permit the movement of traffic between the Southwest and Southeast through all of these crossings on an equalized basis, whereas a rigid fourth section would force all of the traffic through the crossing affording the shortest and most direct route. Practically all rates Southeast to Southwest are combination on Mississippi River. Of all the crossings mentioned, Memphis is by far the most important from a tonnage standpoint, by reason of the fact that there are two railroad bridges crossing the Mississippi River at that point capable of handling an enormous tonnage at the minimum cost, whereas crossing at the other points south thereof is entirely by means of car floats. In times of emergency, such as the European War, the railroad bridges at Memphis would be a most vital and important link in our chain of national defense, and of far more importance than the car-ferry facilities at the other crossings men-

tioned. In the past, on account of congestion at one of the lower crossings, a large volume of tonnage has been diverted through the crossing at Memphis. This would be impracticable under a rigid fourth section, because under such a provision the traffic would be forced through the crossing providing the direct route.

This situation is typical of the situation that will prevail along the Missouri River from Omaha to St. Louis; along the Mississppi from St. Paul to New Orleans; and along the Ohio from Pittsburgh to Cairo.

The Interstate Commerce Commission has recently prescribed a scale of mileage rates to apply between lower Mississippi River crossings and all points in Louisiana and Texas, applicable uniformly over all lines, and also applicable between points within the State of Louisiana and the State of Texas. In prescribing this rate structure the commission realized that unless fourth-section relief was granted to the circuitous route against the short and direct route the result would be that either all of the traffic would flow to the short, direct route leading from the three crossings mentioned or else the scale itself could not be maintained and the uniformity in rates that was desired would thereby be lost. The commission has therefore granted in those cases a certain measure of relief to the circuitous route.

Another result of a rigid fourth section would be to deprive the shipping public of that measure of competition between rail lines which is their only safeguard and hope for the most efficient transportation service. It is pointed out that there is no competition, so to speak, at local points on a line of railroad, and whatever high state of efficiency is maintained by a given line along its entire route, in my opinion, is due entirely to competition, and this competition is met only at junctions or terminal points. A rigid fourth section would in large measure destroy this competition that now exists at such points and would virtually destroy competition between the rail lines entirely. The constant demand of the public since Federal control of rail lines has been to have the carriers returned to their owners and competition restored just as quickly as possible. Even though it be granted that Federal control of rail lines has not had a fair trial, unquestionably the great mass of shippers generally are convinced that the most efficient transportation service is possible only through rail competition; and inasmuch as this element has been totally destroyed during Federal control, they are insistently demanding that it be restored just as early as possible. If they are opposed to the destruction of rail competition by Government ownership or control, obviously they are opposed to the destruction of rail competition by any other governmental action, yet a rigid fourth section will unquestionably produce this result in large measure.

Dealing now with the question of competition between rail lines and water lines, I desire to call the attention of the committee to the map of the eastern half of the United States which was submitted a few moments ago. Prior to the building of rail lines traffic moved almost exclusively by water. The Mississippi River carried an immense tonnage in early days. In the year 1880 considerably over 1,000,000 tons of freight was handled on the Mississippi River between New Orleans and St. Louis. The first rail lines built in the South began at the Mississippi River in 1880 and traverses one of the most important cotton-producing sections of the United States. In the territories served by this line there is produced annually approximately 2,000,000 bales of cotton. By reference to the map it will be noted that this line touches the Mississippi River at various points. At no point is it any great distance from the Mississippi River. Prior to its building, all of the cotton produced in this section moved by boat to the various river points mentioned, and particularly to Memphis and New Orleans. Cotton is the principal tonnage of this line. At the present time there are cotton boats operating between Greenville and New Orleans during the cotton season, and a considerable amount of cotton is still being moved by river. The only way the Yazoo & Mississippi Valley Railroad has been enabled to handle any material part of this 2,000,000 bales of cotton has been by making rates in competition with boat lines along the Mississippi River. If it is deprived of its cotton tonnage it is doubtful if this road could survive and maintain the efficient service it does on the meager tonnage that would be left. To force the Yazoo & Mississippi Valley to retire from the cotton traffic at the river points would be of no benefit to the points at the interior; on the other hand, it is quite likely that the interior local points would be called upon to bear increased transportation burdens in order to make up for the loss of that measure of net revenue the Yazoo & Mississippi River Valley is able to obtain by the handling of cotton at river points.

The question of water competition along the Mississippi River was the subject of very exhaustive investigations by the Interstate Commerce Commission during the year 1912, and its findings are embodied in its report, 30 I. C. C., 153, with which this committee is doubtless familiar. In the year 1890 the commission also had the same question under consideration, in the case of Board of Trade of Chattanooga *v.* the E. T. V. & G. Railway Co., 5 I. C. C., 546. In 1890 the Interstate Commerce Commission found that the traffic between the Atlantic seaboard and Memphis was moving almost exclusively by water through New Orleans. This situation was true at points south of Memphis. In the case above referred to—that is, the fourth-section violations in the Southeast, 1912—the carriers convinced the commission, after an exhaustive hearing, that the depressed rates at Mississippi and Ohio and Gulf ports netted them some measure of profit. In other words, while this traffic was not as profitable as traffic at interior points, the traffic did materially add to their net profits. The commission itself found in that case that if the carriers retired from the traffic at water points they would sustain a net loss of many millions of dollars annually. Relief was therefore granted these carriers to a certain extent, and quite properly so, under the existing fourth section. The commission fixed reasonable rates at the interior points and set the measure for fourth-section departure at the water points. It has been contended by some that the rail lines have depressed their rates at the water points to a greater extent than has been actually necessary, but the commission found in this case, and stated at page 230 of the report in fourth-section violations in the Southeast, that this was not the case at the Mississippi River. The commission said:

"The fact, however, that the boats maintained themselves for more than 12 years in competition with the scale of rates now existing indicates that the petitioners herein have gone little, if any, further than the circumstances required in an effort to meet the water competition, actual or potential, with which they have been confronted."

As a basic principle, those whom I represent hold that no rail carriers should be permitted to make a rate at any point for any cause that does not return to the carrier some measure of net profit. A glance at the map will show that a large percentage of the traffic in the eastern half of the United States can move exclusively by water, and if the rail lines are not permitted to meet this competition, within the bounds of reason, of course, it is readily apparent that the tonnage moving by rail in that section of the United States will be reduced to a very great extent, with a consequent reduction in the net earnings of the carriers, because of the fact that the maintenance and fixed charges of the carriers will not shrink in the same proportions as will their tonnage. The result of this must necessarily be increased transportation burdens to those shippers located at interior points, with no compensating advantage. If the Government by statute is to prohibit these rail lines from participating within reasonable bounds in this traffic, we foresee that the owners of the rail lines may eventually come to the conclusion that there is no incentive for them to continue in the transportation business, and therefore the next move will be Government ownership of rail lines.

The question may be asked as to how cities located on navigable streams could in any manner be injured by a rigid fourth section because they will still have their advantage of water rates. If we could only know that this is true, probably those interests that I represent would not so strongly oppose a rigid fourth section, but basing our expectations upon our experience of human nature, we anticipate that the moment rail rates at water points begin going up that moment also will boat rates go up in equal proportions, with a probable result that the boats would get their rates just as high as they could with safety and still retain the business.

We are convinced that a rigid fourth section would ultimately mean a materially higher level of freight rates on every pound of traffic moving within the United States, with a consequent weakening of the rail lines, a depreciation in their property values, with a consequent disturbance of commercial relationships that are the result of 100 years' growth and evolution, to an extent that would amount almost to revolution. Depreciation in property values of industries of all sorts must necessarily follow any adverse disruption of rate adjustments on which their business is predicated. The value of railroad properties must necessarily increase in value or depreciate in value according to their strategic or nonstrategic position. With the building of every new short, direct route between points in the United States, a new disturbance will be brought about.

A rigid fourth section is an ideal. It would doubtless be perfectly proper if we had a country whose natural conditions fitted those ideals. That we have not.

The Interstate Commerce Commission under the present law has ample powers to protect the public welfare and to protect the carriers themselves. Inasmuch as we can make no uniform and rigid law that will fit into all of the many and varying situations with justice and fairness to all, the interests I represent respectfully submit that the logical and reasonable thing to do is to make such a law as is elastic enough to fit each particular case according to the facts found to exist. The Interstate Commerce Commission in its 30 years of existence has proved conclusively its ability to settle these questions with fairness, and the fact that it retains the confidence of the transportation interests and the shipping public is the best proof thereof.

The CHAIRMAN. Gov. Gooding will be heard next.

STATEMENT OF HON. F. R. GOODING, OF GOODING, IDAHO.

Mr. GOODING. Mr. Chairman and gentlemen, I am here, as the committee is aware, at the request of the governor of my State, to ask for favorable consideration of this bill.

Idaho is vitally interested in this matter, and its future development rests largely with the fate of this bill.

Most of the testimony that I have heard given before this committee has been given along the line of expert testimony, testimony given by men who make this line of work their business occupation, and from what I have seen and heard I am sure that they can all qualify as experts in their line.

My life's work has been along other lines, that of a business man and farmer, so I shall confine my remarks to the principles involved in this bill, its effect upon the growth and development of the West; its effect upon our citizenship, and the danger of a governmental policy that encourages the growth of large cities at the expense of its interior.

This bill proposes to amend the fourth section of our law to regulate commerce and makes it a fixed principle of Government so that in the future no commission shall give any common carrier a right to charge more for a shorter haul than a longer haul over the same road going in the same direction for any class of property. I believe, Mr. Chairman, that whenever I buy a railroad ticket, or pay a freight bill that I am paying a tax, a tax that gives me the right to secure the services of that common carrier in the amount that I have paid for. When that tax is approved by the Government it should be a just tax.

We fought the Revolutionary War over unjust taxation. If there is one principle of our Government that should be sacred and never violated it is that principle that guarantees to all of its citizens a fair and a just tax.

We in the West believe that when a railroad is permitted to charge more for a shorter haul than a longer haul for the same class of freight, where the same service is given, and in the shorter haul much less service is given; that when such discrimination is permitted it is a violation of the principles of our Government. If the West is wrong in its contention as to the violations we have seen of the fourth section of our law to regulate commerce, then I would say, Mr. Chairman, that the Interstate Commerce Commission should put on a campaign of education, for the people of the West want to be right. We want to defend our Government and its institutions on

every occasion, but I have never been able to defend, or find anyone in the West that could defend, the construction of our Interstate Commerce Commission in its regulation of commerce under what is known as the long and the short haul.

The radical element in my State point to this discrimination against our people to show that this is a Government of special privileges, and that the railroads in a large measure are running the Government. I regret to say that that element is growing in my State, but I do not wish to be understood that the increased taxation that has been permitted through the long-and-short haul clause is altogether responsible for that growth. If we are wrong, Mr. Chairman, we want to be shown, because it is the first duty of every citizen to defend his Government, its principles, and its institutions.

It is said that within the past few months most of this discrimination has been discontinued, and may all pass away unless the transcontinental railroads should be forced to meet water transportation. It is my understanding that whenever the transcontinental roads are forced to meet water transportation the Interstate Commerce Commission will then permit the railroads to inaugurate a long-and-short haul clause. This principle, I understand, is laid down by the Interstate Commerce Commission in several cases they have had before them, but I shall leave that evidence to be furnished you by those who will follow me, and who are more familiar with these particular cases. As far as the West is concerned, I think it can be said that there has never been any water transportation that has materially affected our transcontinental roads. It is said by many who are well advised on these matters that these low rates to the coast have been made for only one purpose, and that is to destroy water competition.

We built the Panama Canal, and the West rejoiced. We lived and hoped that some day that great country might come into its own, and that our products would be carried to the markets of the world as cheaply as they are from other parts of this country. Up to the present time the canal has not been used for the transportation of freight from the West to any great extent. There are good and sufficient reasons for that, but the Panama Canal to-day hangs as a nightmare over the West. There is a fear in the hearts of the people of my country that water transportation may come some day; that when it does come, unless this bill is passed, we will be forced to pay higher freight rates to make up for the loss that the railroads claim they will sustain in order to meet water transportation.

If the principle of government is right—that more can be charged in the West for a shorter haul than a longer haul—then that principle is right in every part of this country. It is said that the fourth section of our law to regulate commerce has never been violated between Chicago and the Atlantic coast. If it is right in the East it is right in the West. There is no difference between the people who live east of Chicago and the people who live west of Chicago. We are all living under the same Constitution, under the same flag, and have all answered our country's call in this great war. I know of no line in this country where right begins and wrong leaves off, or where wrong begins and right leaves off.

Speaking of the roads that I am familiar with—and they are known as the Harriman lines—I think the records before you will show that they have paid greater dividends than any other railroad

system in America. They have never needed this discrimination in this back haul that they have insisted on so rigidly for so many years. Speaking of my particular road in Idaho that passes through my town, known as the Oregon Short Line, it was called the bread basket of the Union Pacific for many years, and it was said made the greatest earnings per mile of any railroad in the United States, and yet it was permitted to charge the people of my State nearly 75 per cent higher freight rates in many cases than the people of Portland were asked to pay, and at the same time they were giving Portland a longer haul of from 500 to 600 miles.

The point I want to make clear, Mr. Chairman, is that at no time in the history of the Harriman system has it been necessary to tax the people in those States that their roads pass through in order to make up the loss they had sustained through water transportation. We have a right to presume, Mr. Chairman, unless this bill becomes a law, that when the first boat appears on the Pacific coast asking for freight the railroads of the West will ask for the reinstatement of the long-and-short-haul clause. This country can not reach its full greatness as a Nation unless the interior is given a chance to develop all of its resources and do those things that every other part of this country is given a chance to do. It is the duty of this Government to encourage, as far as possible, the upbuilding of its interior and not permit it to be penalized as it is doing to-day. The men who have pioneered the West, enduring its hardships and privations, are entitled to enjoy the same protection of this Government as those living in any other part of this country.

I would like to see my State given an opportunity to establish jobbing centers upon a permanent basis to encourage manufacturing, but this can not be done if we are to be discriminated against in freight rates. I want the State of Idaho to be given a chance to begin serving in a small way its own people, with the hope in their hearts that some day we may have at least fair-sized cities in Idaho that will give some of our people an opportunity to enjoy the privileges and advantages that come to larger cities. If you pass this bill you will give us the chance to live and to grow and develop our own resources to their fullest extent, and the railroads in my State will soon be forced to double track their lines in order to take care of the increased business.

Mr. Freehafer, a member of our public utilities commission, testified before this committee in a recent hearing that more than half of all the freight handled by the railroads that served Idaho in 1916 was domestic business. If that was true at that time, I am sure that our domestic business in 1918 far exceeded the through business.

There seems to be an impression that the railroads of the West are difficult and expensive to operate. That is not true as far as the Oregon Short Line is concerned. Most of it is built on a water grade down through the great valley of the Snake River. I have seen freight trains pass through my town, which is on the main line of the Oregon Short Line, three-fourths of a mile long. When that train reached its destination over the Oregon Short Line at Huntington the Oregon-Washington Railroad & Navigation Co. picks up the haul; it is divided into three sections and sent out of Huntington, each section with a double header, taking six locomotives to do the work that one was able to do on the Oregon Short Line haul. This

freight is carried 400 miles farther than the last town they served in Idaho. Again let me say my people are not able to understand why, after all this great service is added, that Portland should enjoy a lower freight, or even as low a freight rate, as the people to whom so much less service has been given. These are hard questions for the good citizens of Idaho to understand and meet, and in some measure this discrimination is responsible for the spirit of unrest we have in the West.

I am unable to understand the policy of the railroads in building up these great cities, when they are so fearful of meeting water transportation. I am forced to the conclusion, Mr. Chairman, that there is something more than the fear of water competition in this whole matter; that behind it all there is that selfish policy of the railroads in which they take, when permitted to do so, all a product will bear to carry it to market.

The best evidence I can give this committee to show that the Harriman lines do not need any protection by a violation of the fourth section of our law to regulate commerce is in their own report showing their average earnings for the three years previous to the operation of the roads by the Government. The average earnings of the Oregon Short Line and the Union Pacific—and those are the roads which serve Idaho in a large measure—are given as $33,896,357.35. This was the amount earned by the Union Pacific and the Oregon Short Line for each of the three years previous to Government control. For the year 1918, under Government control, these two roads earned $46,319,475.41, showing an increase for 1918 of $12,422,982.06. This increase over the average earnings of those roads for the three years previous to Government control must be turned back into the public Treasury to help make up the deficiency of other roads. The earnings of the Oregon Short Line and the Union Pacific during the three years previous to Government control are the greatest in their history. They have been permitted to take from the people $12,422,-982.06 more in taxes than the average year previous to Government control. The people that these roads serve will be taxed again to make up the deficiency of other railroads in the United States that, in round figures, amounts to $750,000,000. If there is any spirit of fairness or of justice in this, Mr. Chairman, then I do not know what justice is; and it is these abuses and unjust taxations that are being used to-day more than any other one thing by the Bolsheviki of the West to break down this Government.

I am asking simple justice for my State; an opportunity for it to grow and develop to its full measure of greatness, which we never can hope for unless this bill passes.

Senator FRELINGHUYSEN. Governor, were those figures that you quoted net or gross income?

Mr. GOODING. Those were the net income.

Senator POINDEXTER. Were those figures taken from the reports of the Interstate Commerce Commission?

Mr. GOODING. Yes, Senator. I think that is all I have to say.

Senator POINDEXTER. Thank you, Governor, for your statement.

The CHAIRMAN. Mr. Masman, commissioner of the Charleston (S. C.) Traffic Bureau, will be the next witness.

STATEMENT OF MR. HARRY F. MASMAN, COMMISSIONER CHARLESTON (S. C.) TRAFFIC BUREAU.

Mr. MASMAN. Mr. Chairman and gentlemen, I am commissioner of the Charleston Traffic Bureau, which is supported by the city of Charleston and the Charleston Chamber of Commerce. I have had about 20 years' experience in rate matters with railroads, the Interstate Commerce Commission, and representing manufacturers' or shippers' organizations.

The traffic committee of the Charleston Chamber of Commerce had a meeting early this week when this proposed legislation was called to their attention, and it was the unanimous opinion that active steps be taken to oppose any legislation tending toward a rigid enforcement of the long-and-short haul provision.

I am here for the purpose of expressing the views of the business interests of Charleston in this respect. A rigid application of the long-and-short haul provision will not permit consideration of any other factor than distance in the making of rates. We know that there are other factors that must be considered, chief among which are water competition, the meeting of rates of short and direct lines by longer lines that are not unduly circuitous, and the competition of competing lines from different communities.

The question of water competition is one that can not be waived aside. It is an important factor and a condition that must be met by the rail carriers if they intend to handle business between points where there is water competition. In the case covering fourth-section violations in the Southeast (reported in 30 I. C. C. Repts.) it was found by the Interstate Commerce Commission after an extensive investigation that the rates to the south Atlantic ports were water-compelled rates from northern and New England territory, from the Ohio River crossings and points north thereof, as well as from New Orleans and other Gulf ports. The commission found that the rates at the port cities were not alone affected, but that the interior points also received the benefit of reduced rates by reason of this water competition.

It is needless for me to take up the time of the committee by going into greater detail, but I do desire to call attention to the statement of the Interstate Commerce Commission in the first paragraph, on page 162, of the report hereinbefore mentioned. They state that the net surplus for the fiscal year 1911 for the roads south of the Ohio River and east of the Mississippi River was $917 per mile of road. Then they say, "Were the long-and-short-haul rule rigidly applied in this section and no increases made in rates to the lower-rated points, the average net surplus per mile of road would be reduced to $516." Is it at all probable that the rail lines will suffer this loss and meet the competition of the water routes? I think the question answers itself and that the rates will be adjusted by raising the present water-compelled rates with a resulting loss of traffic to the roads.

The first-class rate from Chicago to Charleston, S. C., all-rail, is $1.83 per hundredweight, and rail-and-water via New York is $1.70. This condition exists from practically the entire territory north of the Ohio River. The present high-rated intermediate territory will certainly not gain if the fourth section is rigidly applied, but certain

points now receiving the benefit of water-compelled rates will lose that benefit and be placed on a relative basis according to distance. This will force the business to the water routes and the rail lines instead of handling long-haul traffic at a rate somewhat in excess of its out-of-pocket cost, will be forced to handle the short-haul traffic from the ports and short-haul traffic has never been looked upon by the carriers as especially desirable from a revenue-producing standpoint.

I will only touch on the question of circuituous routes meeting the competition of short lines at common points. In the commercial world we know that the charges or prices of a competitor must be met if the commodity is of the same value and can be used for the same purpose. Why should the carriers be prevented from doing the same thing?

There must also be considered the question of competing markets served by different carriers. In the distribution of manufactured or agricultural products the difficulty exists in some instances, but is not as serious as is found in the marketing of minerals or other natural deposits which are found at particular points. The coal mines on one road may find it necessary to meet the competition of the mines on another carrier at a certain point. It is to the advantage of the first road as well as the mine owner to have the same rate so that both can carry on their business. Manufacturing concerns usually have the option of locating at a point favorable to the distribution of their products, but in the case of mineral deposits, such as coal, iron ore, salt, etc., the operator has no choice of location. Under a rigid application of the long-and-short-haul provision he would be at a great disadvantage.

There is also the question of foreign trade which must be considered. The time is ripe for the development of both the export and import business of this country. We seem to have been looking only to the export trade, but we must not overlook the raw materials which we must take in exchange for the manufactured products we are sending to Europe and South America.

A study of the rate situation shows that the rates to and from the ports are interrelated so that in effect the through rates are equalized. These export and import rates do not affect the movement of domestic traffic to and from the port cities, but if properly aligned will open avenues of traffic through all the ports. If the long-and-short haul was rigidly applied the domestic rates to the ports would be applied and the result would be that export traffic for South America now moving from St. Louis to New Orleans for transshipment would be diverted through the North Atlantic ports.

I do not believe that the territory common to several ports where the distance is approximately the same should be compelled to route its export or import traffic in a particular channel because the territory intermediate to other ports as favorably located has a different rate basis or classification that results in materially higher rates within that particular territory.

At this time when the Government is making every effort to foster export business, even to the extent of legalizing combinations for export trade under the Webb Act, your committee should carefully consider this proposed legislation which would centralize or divert business to one or two favored ports.

In conclusion, I would say that the Charleston interests believe that the present fourth section is adequate and has sufficient elasticity to prevent unjust discrimination and that it gives the commission power to take into consideration changing conditions which is necessary for the development of commerce.

Senator STANLEY. You are from Charleston, S. C.?

Mr. MASMAN. Yes, sir.

Senator STANLEY. The present arrangement enables the rail carriers to do practically all the business?

Mr. MASMAN. From what territory do you mean?

Senator STANLEY. Well, from all rail-and-water territory.

Mr. MASMAN. Oh, there is active competition from New York and Boston.

Senator STANLEY. But that is all-water?

Mr. MASMAN. Yes.

Senator STANLEY. Under this arrangement you have now it enables a carrier, where it is part rail and part water, to do all the business?

Mr. MASMAN. There are working arrangements at the present time from the territory north of the Potomac and Ohio Rivers through New York and Philadelphia to Charleston by water.

Senator STANLEY. Do you think the water competition, what it takes from the rail carrier, is pernicious?

Mr. MASMAN. It has the effect of keeping the rates on a lower basis, and from competing points in the West the all-rail lines have to meet that competition.

Senator STANLEY. You think it is better to have potential rather than actual water competition?

Mr. MASMAN. There is actual water competition there. It is not potential in any way. The Clyde Line has a service twice a week.

The CHAIRMAN. Are there any further inquiries of the witness?

(No response.)

The CHAIRMAN. If not, Mr. Masman, we will excuse you and call Mr. Tiffany.

STATEMENT OF MR. CHARLES H. TIFFANY, BOSTON, MASS., TRAFFIC MANAGER NEW ENGLAND PAPER AND PULP TRAFFIC ASSOCIATION.

Mr. TIFFANY. Mr. Chairman and gentlemen, I am traffic manager of the New England Paper & Pulp Traffic Association, representing 30 managements operating about 45 mills in northeastern New England, mostly in the States of Maine, New Hampshire, Vermont, and Massachusetts. The mills are, with the exception of two, on and north of the Fitchburg Division, and in and east of the Connecticut Valley.

I had the advantage of reading Mr. Chandler's statement before he made it here, and I entirely agree with what Mr. Chandler said. Mr. Rich, I think, also appeared for our traffic association. I authorized him to do so.

In this presentation I wish to speak of two rate situations only. The rate to the State of Maine on bituminous coal from the Clearfield District, bases upon a rate of $1.20 from Mechanicsville, N. Y., to Portland, Me. That is prior to all the wartime advances. The

rate to points in Maine east of Portland, is built upon that rate, formerly $3.05 from Clearfield to Portland. That $1.20 rate east of Mechanicsville violates the fourth section at Nashua, N. H., 20 cents a ton, and at Rochester, N. H., 30 cents a ton.

Then, when you get near Portland, at Cumberland Mills, five or six miles out from Portland, the violation is to the extent of 10 cents a ton. A rigid construction of the fourth section would, of course, either compel the cutting down of the intermediate rates to not higher than $1.20, with the McAdoo advances additional, of course, or raising the rate to Portland. Raising the rate to Portland would, of course, force a rate 30 cents higher on such bituminous coal as has to reach the Maine industries. All told, the State of Maine, I would estimate, would burn 2,000,000 to 3,000,000 tons of bituminous coal. The mills that I represent east of Portland will run between 250,000 and 300,000 tons a year of bituminous coal. That is very largely received by the Maine industries water borne, mainly from Hampton Roads, and also from Baltimore, and transshipped inland from Portland and Bangor and other ports. A portion of that coal has, in the past two years, had to come all rail. and I expect a portion of it will continue to come all rail, but the great bulk of it is water borne. The rate to Portland is a rate to tidewater, of course, forced by water competition. I think the rate should be lower than $1.20, but I do not entirely defend the intermediate rates. I think the railroads should be permitted to make a departure from the fourth section in that instance. We have pretty bad troubles in New England on coal, and Maine is, of course, at the upper top of the United States.

Senator McLEAN. At the top of the United States, and pretty cold at times.

Mr. TIFFANY. Yes; I represent one mill on St. John's River, at Vanburen, which is almost literally the top of the United States.

Let me say that the Boston & Maine claims, and I think I would concede, that they can not afford to reduce the intermediate rate. They wish to continue that departure from the fourth section.

Now, Mr. Chairman, I think that departures from a strict construction of the fourth section are very much more common in the rate structure than perhaps is generally believed. From our mills in New England we have eight of 10 different routes to New York, carrying the same rates. Some of those routes are very materially longer than the short line route. A new scale of rates is going into effect in New England—the so-called "Anderson scale," prescribed by Commissioner George W. Anderson—and that is a strict mileage scale.

Take the short line from Boston to Fitchburg, for example—50 miles by the Boston & Maine. The New Haven road also runs to Fitchburg and it must be between 50 and 100 miles. Another instance is Springfield. It is 98 miles to Springfield by the Boston & Albany, 129 miles by the Boston & Maine, and 140 miles by the New Haven. Now, I do not see the advantage of depriving the Boston & Maine and the New Haven of the privilege of participating in Springfield traffic.

Now, that is illustrative of the structure very largely. I have used those two New England points.

Senator POINDEXTER. You are speaking of points where there is railroad competition?

Mr. TIFFANY. Yes.

Senator POINDEXTER. Those two roads are competing now for the Fitchburgh business, are they not?

Mr. TIFFANY. Yes.

Senator POINDEXTER. And sharing it?

Mr. TIFFANY. Yes.

Senator POINDEXTER. And they are both operating under the same identical system of rate making, are they not?

Mr. TIFFANY. They have been, Senator Poindexter; yes.

Senator POINDEXTER. They are both under the same rules as to the fourth section?

Mr. TIFFANY. Yes.

Senator POINDEXTER. And yet they compete?

Mr. TIFFANY. Yes, sir.

Senator POINDEXTER. Why do you think they could not compete if that custom were changed and the same rule applied to both of them?

Mr. TIFFANY. The New Haven road, assuming the distance to be 80 miles—I rather think it is more than that—could not, in my judgment, afford to make a 50-mile scale to the points intermediate between Fitchburg. You get out 50 miles on the Boston & Maine and on the New Haven and the rates are the same. The New Haven has to go, say, 30 miles further to reach Fitchburg. All the rates at those intermediate stations in between would have to be cut down.

Senator POINDEXTER. And the same would occur at all intermediate stations on the other line. They would have to cut their rates down, too?

Mr. TIFFANY. No. The short line, the Boston & Maine, their rates grade right up. No distance under 50 miles carries as high a rate as 50 miles.

Senator POINDEXTER. They do not violate the fourth section?

Mr. TIFFANY. No; the short line does not. The long line does to-day, and has for years done so, by permission.

I am not entirely sympathetic with the Spokane claims. I have known something about that case; but I do appreciate some of the raw deals that have been spoken of here. I am not at all an attorney for the railroads. In this rigid fourth-section bill of yours I think you are going to hit a whole lot more heads than you are aiming at. I know what you are aiming to do, and I think it is going to result in a serious disruption of business adjustments as they are to-day. I have thought that the Commission may be trusted to take care of the situation. I know a whole lot of the rates that nobody is thinking of to-day are going to be hit by this bill if it passes.

Mr. Chairman, I may say that is all the evidence I care to give. I am a member of the legislative committee of the National Industrial Traffic League, which has recorded itself against the Poindexter bill. I have had 38 years of railroad and industrial traffic experience. I have been pretty largely all over the country. For the last 24 years I have been traffic manager for industrial interests, and the present tonnage that I represent of paper and pulp and the inbound raw materials, including coal and a very heavy movement of pulp wood, runs between two and a half and three million tons a

year. Our paper and pulp outbound is around half a million tons a year. We send paper everywhere in the country, and pulp is distributed to the pulp mills.

The CHAIRMAN. We will now hear Mr. McCarthy.

STATEMENT OF MR. W. S. McCARTHY, REPRESENTING THE TRAFFIC BUREAU OF UTAH.

Mr. McCARTHY. Mr. Chairman and gentlemen, I represent the Traffic Bureau of Utah, comprising the principal shippers of the cities of Salt Lake, Ogden, and Provo, Utah. I also represent the Commercial Club of Salt Lake City.

In his testimony Mr. Barlow requested that the testimony given by the Chicago interest at the last hearing be included in his testimony at this hearing. I would like to make this comment on that. I heard that testimony, and I think the testimony of Mr. Frank Bentley, of the Illinois Steel Co. and the United States Steel Corporation was very impressive, for the reason that Mr. Bentley controls a very large tonnage. I think he said it was greater than that of the Southern Pacific Co. One statement Mr. Bentley made was that the present rate of adjustment was entirely satisfactory to the interests he represented.

Now, my comment on that is this, that the steel corporation, while it prepays the freight on its output, charges that freight to the customer, and I can see why they would be interested in maintaining this adjustment, for the particular reason that when they make shipments from Chicago to the West—as they do most of their tonnage—they charge freight from Pittsburgh, so that there is a pretty substantial reason for their being opposed to a rigid enforcement of the fourth section.

I have a map here which was hurriedly made and very crudely drawn, but which may serve to throw some light on this proposition. I hope it will, at any rate.

This is a crude map of the country [exhibiting blue print, which is reproduced at end of statement, p. —.]

I want to call attention particularly to the points San Francisco and Boston, and then to Salt Lake City, and the line leading south from there to Los Angeles, and to explain the situation that exists there with reference to wool rates. One thing that has rather impressed me in the progress of this testimony is the amount of discrimination in cents per hundred pounds. The gentleman who preceded me spoke of a difference of from 10 to 30 cents a ton on coal, and I would like to have you bear that in mind in connection with this testimony.

Now, if you will note Salt Lake City and the line leading to Los Angeles, following down that line, the second station is Lofgreen; then Milford, Lund, and Modena. At all those points large numbers of sheep are shorn. The State of Utah produces about 15,000,000 pounds of wool, and Idaho, I think, about 20,000,000 pounds, so there are about 35,000,000 pounds of wool that are affected in greater or lesser degree by this rate adjustment.

The process in the past of handling this wool I will describe. By referring to that statement you will notice that the rate on wool from Lofgreen, Utah, directly east to Boston, is $2.45 per hundredweight.

From Black Rock and Milford, the next two towns, it is $2.67; from Lund it is $2.855, and from Modena $2.975, when the wool moves direct from the point where it is taken off the sheep's back to Boston. The method of handling that wool in the past, however, has been this: It is loaded in cars and taken to Los Angeles, where it is baled at a cost of 12½ cents per hundredweight. It then moves back to Boston through the point where it was taken off the sheep's back at a rate of $1.25 per hundredweight.

Senator STANLEY. What was the first rate?

Mr. MCCARTHY. The through rate when moving directly east to Boston from the point where it is taken from the sheep's back?

Senator STANLEY. To Boston direct?

Mr. MCCARTHY. Yes; but via Los Angeles the through rate becomes the figure of $2.375, from the five points previously mentioned, namely, Lofgreen, Black Rock, Milford, Lund, and Modena, which rates of $2.375 via Los Angeles results in the following reductions, respectively, below the direct rates from those points to Boston, previously mentioned: From Lofgreen, 7½ cents; from Black Rock, 29½ cents; from Milford, 29½ cents; from Lund, 48 cents, and from Modena, 60 cents.

Senator POINDEXTER. What is the distance between Lofgreen and Los Angeles?

Mr. MCCARTHY. The distances are shown here on this statement.

Senator POINDEXTER. Then, I understand the wool is carried from Lofgreen to Los Angeles and back again from Los Angeles through Lofgreen, making the distance 1,421 miles greater?

Mr. MCCARTHY. Yes; or a total distance of 4,047 miles.

The CHAIRMAN. Why is that done?

Mr. MCCARTHY. I would like to hear a satisfactory explanation of that, Senator, myself.

The CHAIRMAN. Is it because you can not bale the wool at that place?

Mr. MCCARTHY. We could bale it; but we have no rate on baled wool.

Senator STANLEY. You have to do that in order to get the advantage of the water rate from Los Angeles to Boston?

Mr. MCCARTHY. Yes; but I can not understand why they take the business down into the very jaws of the water competition.

The CHAIRMAN. Do you mean that that situation actually exists now; that you haul your wool from Utah to Los Angeles and back through Utah to Boston?

Mr. MCCARTHY. Yes.

Senator ROBINSON. What is the justification alleged for it?

Mr. MCCARTHY. There is not any that I know of.

Senator ROBINSON. Has the matter ever been presented to the Interstate Commerce Commission?

Mr. MCCARTHY. Yes; these rates have been before the commission.

Senator ROBINSON. Have they rendered any decision on them?

Mr. MCCARTHY. Yes.

Senator ROBINSON. Have you a copy of the decision in any case involving that question?

Mr. MCCARTHY. No; but I can furnish you with that information.

Senator ROBINSON. Have you read the decisions?

Mr. McCARTHY. Yes; but that is a long time ago. I do not recall just what they are now.

The CHAIRMAN. Without regard to the rates charged, the waste involved in transporting the wool 1,400 miles more than is necessary is almost incredible.

Senator ROBINSON. It is, indeed.

Mr. McCARTHY. That is just an exaggerated case of a great many other instances that might be pointed out.

Senator STANLEY. That is not any worse than the sugar case. Mr. Chairman, I think it would be well for some one—the Interstate Commerce Commission or Congress or somebody else—to make an inquiry into the actual loss that is suffered by the commerce of this country in useless hauls, as a result of this long-and-short-haul clause.

Senator POINDEXTER. There are some specific suggestions on that point in the hearings on this bill before the subcommittee in the last Congress.

Senator STANLEY. The cost of transportation, Senator, is essentially a tax, so far as the freight is concerned. Every unnecessary haul of a ton of freight is a tax upon the public, as much so as if it were levied on imports.

Senator McLEAN. I think we should have a statement from Mr. Clark, or some member of the Interstate Commerce Commission.

The CHAIRMAN. It has been suggested to me by one of the members of the committee that Mr. Clark, of the Interstate Commerce Commission, who is well versed upon this subject, be called, and I intend to invite Mr. Clark to appear before the committee—and any other member of the commission who may desire to come or who may be asked to come. The thing that appeals to me strongly is not the matter of rates, not the violation of the long-and-short-haul clause, but the violation of all the fundamental principles of economy in transportation.

Senator STANLEY. As you know, Mr. Chairman, I am comparatively new to this business, but the thing which strikes me as most vital in this whole situation is the necessity for the elimination of the useless haul; the necessity for economy in transportation.

The CHAIRMAN. There are a great many instances of violation of the long-and-short-haul clause that do not involve any waste in transportation, but this is almost incredible.

Mr. McCARTHY. In the hearings pursuant to Senate resolution 171, I think, Parts I to VII, pages 232 and 233, Mr. Julius Kruttschmidtt, of the Southern Pacific Co., quoting figures derived from the Interstate Commerce Commission's report, showed that the average movement per loaded car per day was 27 miles. Now, if that be true, as there are in many of these cases an average of over 800 miles unnecessary transportation for each carload of this wool, it means that each car is unnecessarily engaged in service about 30 days.

Now, I have listened to the different witnesses here with a great deal of interest, and they have referred to what the Interstate Commerce Commission will do; that it is within the power of the commission to do certain things; but there is one thing I want to impress upon you gentlemen, that I have noticed; I have yet to find where the Interstate Commerce Commission has made any investigation of any kind to ascertain whether or not traffic to the Pacific coast was being handled at less than cost—and yet they tell us that our

rates at the interior are reasonable, and I would like to know how they know that.

Now, let us take these rates and analyze them a bit. The rate of $2.275 on wool from Salt Lake City to Boston direct pays 17.8 mills per ton per mile, or 26.75 cents per car-mile. The rate of $1.25 from Los Angeles to Boston, through Salt Lake City, pays 7.48 mills per ton per mile, or 11.25 cents per car-mile. The Salt Lake rate pays two and one-half times as much as the Los Angeles rate.. Now, if you were to apply the rate of 7.48 mills per ton per mile from Salt Lake City instead of the rate of $2.275 you would have a rate of 95½ cents. Seven and forty-eight one-hundredth mills can not be so far from a remunerative rate, because I think the average rate in the United States on all traffic is something under 10 mills. So that if we were to pay 25 per cent more in mills per ton per mile our rate would be probably less than the Los Angeles rate, and yet would be a remunerative rate.

Senator STANLEY. You mean the average rate on freight of that class?

Mr. MCCARTHY. No: it is all freight that I spoke of there.

Senator STANLEY. To make a parallel that would be still more valuable, you want to get the average rate for freight in that class.

Mr. MCCARTHY. Oh, yes; I appreciate that.

The $1.25 rate applied from Salt Lake City would produce 9.8 mills per ton per mile, or 31 per cent more revenue than it gives the railroads for the same haul from Los Angeles.

Now, then, if, as contended by the carriers, the water-compelled rate pays the out-of-pocket cost, and a little profit, it seems to us people, located 800 miles from the sea in the interior, where there are no difficult operating conditions such as there are west of us, that 31 per cent profit is a pretty fair profit on their part. The haul west of Salt Lake City, according to the Southern Pacific officials—and this testimony appears in the hearings before the joint subcommittee of the Senate, Sixty-fifth Congress, and is the testimony of Mr. McDonald, I think, of the Southern Pacific, where he shows the extreme difficulty and expense of operation west of Reno, if you please, through the snowsheds and over the mountains, and tells of the fire-fighting apparatus maintained to protect the snowsheds, and of the men located on the mountain peaks to look out for fires, with steam up in the locomotives for fear of fire, and that signaling apparatus cost them $25,000 a year over that particular line, and yet they haul this particular traffic at 7.48 mills per ton per mile, and we assume that, being law-abiding citizens, they are obeying the mandate of the law and not charging less than it costs to handle the traffic.

Senator FRELINGHUYSEN. Is this wool shipped in bulk to Los Angeles?

Mr. MCCARTHY. No; it is shipped in sacks.

Senator FRELINGHUYSEN. And it is there baled?

Mr. MCCARTHY. Yes; but I understand the method is simply to take three sacks and put them together and run a couple of wires around them. It is not compressed.

Senator FRELINGHUYSEN. Who bales it?

Mr. MCCARTHY. It is done by wool-baling houses.

Senator FRELINGHUYSEN. Could it not be baled at Salt Lake City?

Mr. MCCARTHY. It could be, but they have no rate on baled wool, and there would be no advantage in doing it.

Senator MCLEAN. There could be a rate put in if you did bale it, could there not?

Mr. MCCARTHY. Well, it never has been done. Here is a situation that may answer that question.

Senator STANLEY. If you could get a rate you could get a baler?

Mr. MCCARTHY. Yes; there would be no trouble about that. On this map you will notice just west of Salt Lake a town called Lago, from which the first-class rate to New York City is $4.25 per hundred pounds, as shown by this statement. From Salt Lake City, 20 miles east of Lago, it is $4.405. From San Francisco and Lago to Pittsburgh, first class, it is $3.84. From Salt Lake City it is $4.06; and so on down the line, as shown by that statement.

Now, here is a case that was called to the attention of the railroads, to show you how this works. These are small matters, but they are illustrative of the principle.

I neglected to state, when I commenced my statement, that I am also traffic manager of the Salt Lake Hardware Co., a hardware concern with headquarters at Salt Lake City and a branch at Pocatello, Idaho. Here is an illustration on one of our own shipments, a box of leather-bag shields shipped to Omaha. The rate charged was $2 per hundredweight, which was $6.20.

I happened to notice that there was apparently something wrong with the bill, and I had it checked up, and I found that the rate from San Francisco and also from Lago was $1.15 to Omaha, so I made a combination rate. The interstate-commerce act provides that the combination of local rates can not be exceeded; so that, while this rate of $2 is carried in a legally published tariff, yet it is an unlawful rate, because it does not conform to the requirements of the interstate-commerce act. So I made a combination rate of 8 cents from Salt Lake west to Lago, plus $1.15, making a through rate of $1.23, showing an overcharge of $2.39 on this shipment, and presented it to the railroad company. It came back under date of January 20, 1917, over the signature of the freight claim agent of the Oregon Short Line, saying:

> Wish to advise that this matter was referred to Mr. Reeves, our general freight agent, and we are now in receipt of advice that the Lago combination can not be applied on the shipment in question, there being a specific through published rate from Salt Lake to Omaha. Claim is respectfully declined.

That was on January 20, 1917.

On February 20, 1919, our harness department had occasion to make a shipment of 1,950 pounds of leather to San Antonio, Tex., from Salt Lake City. The rate charged was $2.89, making a total charge, including the war tax, of $58.04. That leather also was sold delivered, and when the bill came to me I had it checked, and I figured a similar combination on that, making a rate of 21½ cents from Salt Lake to Lago, plus the present rate of $1.565, which applies from San Francisco and Lago to San Antonio, producing a through combination rate of $1.78. I presented that claim to the railroad company, and it came back from the auditor of freight re-

ceipts of the Denver & Rio Grande Railroad with his letter of May 15, 1919—a month ago—saying:

Freight bill in your claim No. O. C. 597 returned herewith. There is no authority in Leland's tariff, 17-U, I. C. C. No. 1142, to use Lago combination eastbound. The correct rate to apply on this shipment is $2.89 per hundredweight. As charges were assessed on this basis, your claim is respectfully declined.

Now, for that haul of 820 miles less there is an overcharge in freight of $74.31, and the Government also got $1.04 more in the way of a tax than they would had they hauled the shipment from San Francisco to San Antonio.

Senator STANLEY. Through Salt Lake City?

Mr. MCCARTHY. Yes; right through Salt Lake City. Now, as to the statement that if these things are called to the attention of the carriers they will correct them, I have submitted two instances right there—one in 1917 and the other in 1919—and the condition still exists.

Senator POINDEXTER. I suppose that rate at Lago is based on water competition? [Laughter.]

Mr. MCCARTHY. I assume so, sir. By the way, it may interest you to know, before leaving that wool situation, that these carriers were given relief from the fourth section in order No. 1442, July 13, 1912, issued by the Interstate Commerce Commission, and that is still in effect—seven years, nearly.

Now, as to charges from the east, this is typical. The rate on canned goods, we will say, from Boston to Seattle—and I am speaking of rates which were in effect prior to the 25 per cent advance—was, as I recall it, 75 cents. The distance is about 3,200 miles or a little over. I think the distance from Boston to Granger, Wyo., is 2,300 miles and the rate is $1.10. You could take a car of canned goods and ship it from Boston to Seattle, through Granger, and reship it from Seattle to Boston, right back through Granger, a distance of 6,400 miles, for only 27½ cents a hundred more than it costs to transport it from Boston to Granger. That is on account of the carriers having permission to violate the fourth section of the act to regulate commerce.

Now, as to some of the existing eastbound rates, the present rate on leather from San Francisco to New York City, less than carload, is $1.565. From Utah common points it is $3.725. On macaroni in carloads—and, by the way, we have a macaroni factory in Salt Lake City—the rate from San Francisco is $1.69; from Salt Lake City to New York City it is $1.965. From San Francisco to Pittsburgh it is $1.565, and from Salt Lake City to Pittsburgh it is $1.785. On petroleum and products from San Francisco to New York the rate is 94½ cents, and from Utah common points it is $1.685. We have a refinery in Salt Lake City, refining oil produced in western Wyoming, and they are, at the present time, boring for oil, with every prospect of success, within 100 miles of Salt Lake City. We also have a packing industry in Utah at Ogden and Salt Lake City. The rate on lard and lard substitutes from San Francisco to New York is $1.565, and from Utah common points it is $1.89.

I want to impress upon you gentlemen that these are eastbound rates. That traffic starts from sea level at the Pacific coast and goes

up 7,000 feet, through Truckee, over the snowsheds, and comes down the mountains, and from the Utah common points east the haul is not at all difficult, as the operating ratio of the railroads will show.

I noted the fear expressed by many of these witnesses concerning the raising of rates at the interior points—Detroit and Chicago—if this bill were passed. They all, without exception, expressed the fear that the railroads would immediately go out of business at the terminals. I have been engaged in the transportation business actively with railroads and with industrial concerns for 30 years. Prior to the passage of the Elkins law I made rates with a knife, the same as everybody else did in those days, and I never yet have seen any railroad voluntarily retire from any business of considerable volume; and I think that is the most unfounded prediction that has been made in the presence of you gentlemen. I do not think any railroad will ever retire from any considerable business.

Now, I would like to briefly quote a few rates that have been in effect in the past.

For example, the rate on small-arms ammunition from the Atlantic seaboard to the Pacific coast was $1.25 per hundred pounds. At the same time it was $1.73 to Utah, and that, by the way, was a differential rate lower than the all-rail rate. That was a rate via the Morgan or the Mallory Line through Galveston or through the north Atlantic ports, and was an inferior service to all-rail service.

The rate on automobile parts from the Atlantic seaboard is $2.25 to the coast and $3.14 to Utah. From Detroit, Mich., it is $2.15 to the coast and $3.11 to Utah. From Chicago to the Pacific coast it is $2.07 per hundred pounds and to Utah, $2.85.

Senator STANLEY. In moving from Chicago to San Francisco by way of Salt Lake City, what is the relative distance to Sale Lake City? It is about two-thirds of the distance, is it?

Mr. MCCARTHY. Salt Lake is 1,500 miles from Chicago.

Senator STANLEY. And it is about 800 miles from San Francisco?

Mr. MCCARTHY. Yes. Now, I do not know that I care to take up the time of the committee with any further illustrations, but those are typical. Here is a statement that is full of them [exhibiting paper].

Senator LA FOLLETTE. Let that be incorporated in the record.

Senator STANLEY. Incorporate all of them in the record.

Mr. MCCARTHY. I fear that this statement would be misleading. I would prefer to file another statement with you that would be more clear.

Senator STANLEY. I suggest that you have all these statements that you have referred to filed in the record.

The CHAIRMAN. We could not very well reproduce these maps.

Senator STANLEY. Oh, no; but these statements.

The CHAIRMAN. Yes, these statements that have been referred to by you before us, Mr. McCarthy, will be incorporated in the record, and you will furnish the other statement to which you have just referred.

Mr. MCCARTHY. Yes.

Senator LA FOLLETTE. These maps can be reproduced at the Print-

ing Office in black lines, with the names of the stations on them, and would not cost anything to speak of.

Senator POINDEXTER. I should think that would be very easy.

(NOTE.—Maps referred to were blue prints and could not be reproduced at the Printing Office.)

Mr. MCCARTHY. In connection with the testimony of Mr. Bentley, concerning the rates on iron and steel articles, I would like to read a part of the testimony of another officer of the United States Steel Corporation. He was questioned concerning the rate on pipe from Pittsburgh to the West and asked if he knew of any reason why the rate to Utah should be higher than the rate to the Pacific coast. That man was Mr. Townsend, the traffic manager of the National Tube Co., and one of the best known authorities in the United States as an industrial traffic man. Here is an excerpt from his testimony:

Mr. Townsend, can you say what the rate is to Salt Lake City?

Mr. TOWNSEND. I hate to; it is so high.

This 75-cent rate on wrought iron pipe, or the 65-cent rate from Pittsburgh to San Francisco, could you think of any reason why the rate should be any higher at Salt Lake City, a point intermediate?

Mr. TOWNSEND. No reason at all; only that they have got you.

Senator STANLEY. In speaking of the statements of the Steel Corporation representatives touching railroad rates, what is your purpose. What do you mean to illustrate by that?

Mr. MCCARTHY. I do not remember whether you recall that Mr. Barlow, of Chicago, requested that the testimony of the Chicago interests at the former hearing, about a year ago, before a committee of the House, be incorporated in this hearing, and Mr. Bentley at that time said they were entirely satisfied with this adjustment and that it was proper.

Senator STANLEY. In that connection it might be well to observe that there is no railroad system in the United States that carries the same tonnage as the United States Steel Corporation, and the minutes of the United States Steel Corporation show that they have stated as their fixed policy that the higher railroad rates are the better it is for that corporation. It is to the interest of the Steel Corporation to keep transportation rates at the highest possible level.

Mr. MCCARTHY. I can see why it is to the West, on shipments from Chicago.

Senator STANLEY. Because they control enough transportation systems to recoup any loss that they might incur in the payment of freight to other railroads.

Mr. MCCARTHY. I have just one more illustration that I would like to make: I stated that so far as I knew the Interstate Commerce Commission had never investigated to find out whether the railroads were getting below the cost of operation on the traffic to the Pacific coast, and I believe that to be true. Take one commodity—iron and steel articles. There was a rate of 65 cents from Pittsburgh to the Pacific coast on iron and steel for domestic consumption. The earnings from that rate were 5.76 mills per ton per mile.

The railroad man tells you that that rate was made to meet water competition; that it pays only the out-of-pocket cost, which, as I understand it, is practically everything but interest and dividends. Then, he makes a rate of 40 cents a hundred, which pays 3.54 mills per ton mile on exactly the same commodity going through the

port of San Francisco or other Pacific coast terminals for export, and that rate also pays the out-of-pocket cost and a little profit, and so does the rate 25 cents higher.

Now, we have asked, and the effect of this bill would be, that if they were required to apply the 65-cent rate into Utah, the earnings per ton per mile would be 8.65 mills, or 50 per cent more money than they get from the traffic to the coast for domestic consumption.

Senator McLEAN. What effect would that have on the rate for a short distance?

Mr. McCARTHY. I do not believe I understood you, Senator.

Senator McLEAN. What effect would that have on the rates to intermediate points?

Mr. McCARTHY. It would make the rate the same. It would bring it down to 65 cents.

Senator McLEAN. Then it would not benefit the intermediate points.

Mr. McCARTHY. Why not?

Senator McLEAN. They would get no reduction over existing rates.

Mr. McCARTHY. No; but their rate is now a great deal higher. I had not finished. If that rate were reduced the effect on the railroad would be to give it 50 per cent more revenue per ton per mile on the traffic to Utah than on the same traffic to the coast; but they say to us, "We can not afford to do that for you. Your rate is 82 cents per 100 pounds and we must charge you 10.82 mills per ton per mile. We pay all of our out-of-pocket cost and everything but interest and dividends out of 3.54 mills per ton per mile, but we can not afford to haul freight for you for less than 10.82."

Senator STANLEY. Have you ever made any investigation to find out what proportion of the freight originating at these large ports on the Atlantic seaboard is carried by all-water routes to the ports on the Pacific coast—to Los Angeles, San Francisco, and Seattle? There must be an immense volume of traffic originating in Boston, New York, and Savannah, Mobile, and New Orleans that goes to Los Angeles, San Francisco, Seattle, and so on.

Mr. McCARTHY. I think that doubtless is true.

Senator STANLEY. Have you or any others of these people that you know anything about made any investigation to find out to what extent that traffic is all-water borne?

Mr. McCARTHY. No. There were some figures introduced before the Interstate Commerce Commission at the time of the opening of the canal. How authentic they were I do not know. I think this, however, should be borne in mind: That this freight is not consumed on the wharves at which it is unloaded. It goes back into the country, a large percentage of it, and the railroads do derive a benefit from that traffic. It is not a total loss to them.

Senator STANLEY. Oh, I understand it is distributed back from the ports; but have you any idea how much freight that originates, for instance, at Boston Harbor or New York or Savannah, which might be coal from the Klondike or Kentucky or tobacco from South Carolina or Virginia—but have you any idea how much freight that leaves those ports is consigned to the ports on the Pacific coast, whether it goes back into the interior or not?

Mr. McCARTHY. No, sir; I have not.

Senator STANLEY. If it is a mere modicum of the traffic that is all-water borne, the digging of the Panama Canal, it strikes me, was a colossal blunder.

Mr. McCARTHY. I have sometimes thought that myself, so far as the transportation of transcontinental freight is concerned, and particularly bearing in mind the late James J. Hill's statement concerning it, that if he had his way it would grow up to a lily patch.

The CHAIRMAN. In the hearings we had at San Francisco nearly two years ago, the relative amount of freight which was entirely water borne to and from both the eastern and western coasts, as compared with the freight that was land borne, was stated, but I do not remember what it was.

Senator POINDEXTER. Some years ago there was an investigation by the Interstate Commerce Commission on that subject, and I think they found that the only thing that went by water was grindstones.

The CHAIRMAN. It was developed at San Francisco that they did move considerable freight by the canal, but the proportion was very small compared with the proportion moved by rail.

Senator FRELINGHUYSEN. What amount of oil is produced in Utah?

Mr. McCARTHY. I have no figures anywhere on that. You mean the production of oil from the earth?

Senator FRELINGHUYSEN. Yes.

Mr. McCARTHY. I do not think there is any at the present time.

Senator FRELINGHUYSEN. Was the location you spoke of as being 100 miles from Salt Lake City at Three Rivers?

Mr. McCARTHY. No, sir.

Mr. TIFFANY. Mr. Chairman, if I may be permitted, I wish to speak a moment with respect to one thought that was expressed. I do not believe that the Pennsylvania Railroad, splendid as it is, could possibly handle alone the business between Pittsburgh and New York. I know absolutely that the New Haven Railroad, which is the short line from practically all of New England, simply could not stand up under that traffic alone. I believe all the lines, where there is a great density of traffic, are required to handle it expeditiously. Mr. Wilson was formerly an officer of the Pennsylvania Railroad, and I think he would confirm that.

Senator STANLEY. I perhaps expressed myself too broadly in the premise. My idea was that where there are two lines between common termini, and one longer than the other, there might be a difference in the cost per ton per mile where there was not too great a difference in the length of the haul, and that as the shorter line became congested on account of its advantage in cost, the freight would automatically be diverted to the long line, the shipper paying the difference in the cost to compensate for the difference in the time of delivery. Whether that would work out or not I do not know.

The CHAIRMAN. We will now hear Mr. George P. Wilson, commissioner of transportation of the Philadelphia Chamber of Commerce.

(By direction of the chairman the following data is incorporated in the record:)

Statement showing rates on wool from various Utah points on the Denver & Rio Grande Railroad and Los Angeles & Salt Lake Railroad to Boston, Mass., and from the same points on the Los Angeles & Salt Lake Railroad to Los Angeles, Calif., plus baling charge thence to Boston.

From—	To—	Distance.	Rates.	Route.
		Miles.		
Marysvale, Utah	Boston, Mass.	2,952	$2.72	D. & R. G., M. P., Pennsylvania, N. Y. N. H. & H.
Elsinore, Utah	do	2,932	2.72	Do.
Richfield, Utah	do	2,924	2.72	Do.
Sterling, Utah	do	2,887	2.64	Do.
Manti, Utah	do	2,882	2.64	Do.
Nephi, Utah	do	2,910	2.64	Do.
Mount Pleasant, Utah	do	2,860	2.64	Do.
Fairview, Utah	do	2,853	2.64	Do.
Colton, Utah	do	2,785	[1] 2.42½	Do.
Price, Utah	do	2,759	[1] 2.40	Do.
Thompsons, Utah	do	2,668	[1] 2.32½	Do.
Cisco, Utah	do	2,645	[1] 2.30	Do.
Grand Junction, Colo.	do	2,590	2.25	Do.
Salt Lake, Utah	do	2,553	2.27½	O. S. L., U. P., C. N. W., N. Y. C., B. & A.
Lofgreen, Utah	do	2,626	2.45	L. A. S. L., O. S. L., U. P., C. N. W., N. Y. C., B. & A.
Do	do	[2] 4,047	[2] 2.37½	L. A. S. L., Los Angeles, L. A. S. L., O. S. L., U. P., C. N. W., N. Y. C., B. & A.
Black Rock, Utah	do	2,737	2.67	L. A. S. L., O. S. L., U. P., C. N. W., N. Y. C., B. & A.
Do	do	[2] 3,937	[2] 2.37½	L. A. S. L., Los Angeles, L. A. S. L., O. S. L., U. P., C. N. W., N. Y. C., B. & A.
Milford, Utah	do	2,760	2.67	L. A. S. L., O. S. L., U. P., C. N. W., N. Y. C., B. & A.
Do	do	[2] 3,914	[2] 2.37½	L. A. S. L., Los Angeles, L. A. S. L., O. S. L., U. P., N. N. W., N. Y. C., B. & A.
Lund, Utah	do	2,795	2.85½	L. A. S. L., O. S. L., U. P., C. N. W., N. Y. C., B. & A.
Do	do	[2] 3,879	[2] 2.37½	L. A. S. L., Los Angeles, L. A. S. L., O. S. L., U. P., C. N. W., N. Y. C., B. & A.
Modena, Utah	do	2,827	2.97½	L. A. S. L., O. S. L., U. P., C. N. W., N. Y. C., B. & A.
Do	do	[2] 3,847	[2] 2.37½	L. A. S. L., Los Angeles, L. A. S. L., O. S. L., U. P., C. N. W., N. Y. C., B. & A.
Los Angeles, Calif.	do	3,337	1.25	L. A. S. L., O. S. L., U. P., C. N. W., N. Y. C., B. & A.

[1] Indicates Fourth Section Order No. 1442 of July 13, 1912.
[2] Indicates rate and distance figured to Los Angeles, plus baling charges 12½ cents per 100 pounds, and thence L. A. & S. L., O. S. L., U. P., C. N. W., N. Y. C., B. & A.

Statement showing rates (in cents per 100 pounds) on various commodities, from San Francisco, Calif., and Utah common points to various eastern destinations.

From—	To—	Commodity.	Rate.	Tariff authority.	
				Item No.	I. C. C. No.
San Francisco, Calif...	New York, N. Y..	Leather, L. C. L....	156½	675-B.....	Countiss' 1038.
Utah common points..	.....do.....	.....do.....	372½	565..... Second class beyond.	Boyd's A-989.
San Francisco, Calif...	Pittsburgh, Pa....	.....do.....	156½	675-B.....	Countiss' 1038.
Utah common points..	.....do.....	.....do.....	339	565..... Second class beyond.	Boyd's A-989.
San Fransicco, Calif...	Detroit, Mich.....	.....do.....	156½	675-B.....	Countiss' 1038.
Utah common points..	.....do.....	.....do.....	324	Second class beyond.	
San Francisco, Calif...	New York, N. Y..	Macaroni, C. L.....	169	777-A.....	Countiss' 1038.
Utah common points..	.....do.....	.....do.....	196½	565..... Fifth class beyond.	Boyd's A-989.
San Francisco, Calif...	Pittsburgh, Pa....	.....do.....	156½	777-A.....	Countiss' 1038.
Utah common points..	.....do.....	.....do.....	178½	565..... Fifth class beyond.	
San Francisco, Calif...	Detroit, Mich.....	.....do.....	150	777-A.....	Countiss' 1038.
Utah common points..	.....do.....	.....do.....	172½	565..... Fifth class beyond.	Boyd's A-989.
San Francisco, Calif...	New York, N. Y..	Petroleum and products.	94½	890-A.....	Countiss' 1038.
Utah common points..	.....do.....	.....do.....	168½	2112..... Fifth class beyond.	Boyd's A-989.
San Francisco, Calif...	Pittsburgh, Pa....	.....do.....	94½	890-A.....	Countiss' 1038.
Utah common points..	.....do.....	.....do.....	150½	2112..... Fifth class beyond.	Boyd's A-989.
San Francisco, Calif....	Detroit, Mich.....	.....do.....	94½	890-A.....	Countiss' 1038.
Utah common points..	.....do.....	.....do.....	145½	2112..... Fifth class beyond.	Boyd's A-989.
San Francisco, Calif....	New York, N. Y..	Lard and lard substitutes.	156½	966-A.....	Countiss' 1038.
Utah comm on points..	.....do.....	.....do.....	189	2125..... Fifth class beyond.	Boyd's A-989.
San Francisco, Calif...	Pittsburgh, Pa....	.....do.....	156½	966-A.....	Countiss' 1038.
Utah common points..	.....do.....	.....do.....	171	2125..... Fifth class beyond.	Boyd's A-989.
San Francisco, Calif...	Detroit, Mich.....	.....do.....	156½	966-A.....	Countiss' 1038.
Utah common points..	.....do.....	.....do.....	165	2125..... Fifth class beyond.	Boyd's A-989.

Statement showing rates (in cents per 100 pounds) in effect prior to Mar. 1, 1918, on various commodities from New York City to Pacific coast and Salt Lake City, and from New York City to Pacific coast and back to Salt Lake City, on the same commodities.

	Commodity.	Rate.	Distance.	Route.	Tariff authority.
From New York City to—			*Miles.*		
Seattle, Wash..	Canned goods.	[1] 75	3,360	Pennsylvania, Chicago & Northwestern, Union Pacific, Oregon Short Line, Oregon-Washington Railroad & Navigation Co	Countiss's I. C. C. No. 1020.
Salt Lake City, via Seattle.	.....do.....	125	4,432	Pennsylvania, Chicago & Northwestern, Union Pacific, Oregon Short Line, Oregon-Washington Railroad & Navigation Co., Seattle, Oregon-Washington Railroad & Navigation Co., Oregon Short Line.	Countiss's I. C. C. No. 1020 to Seattle and Oregon-Washington Railroad & Navigation Co. I. C. C. No. 418, Seattle to Salt Lake.
Salt Lake City.	.....do.....	[2] 110	2,424	Pennsylvania, Chicago & Northwestern, Union Pacific, Oregon Short Line.	Countiss's I. C. C. No. 1020.
Portland, Oreg.	Wrapping paper.	75	3,177	Pennsylvania, Chicago & Northwestern, Union Pacific, Oregon Short Line, Oregon-Washington Railroad & Navigation Co.	Countiss's I. C. C. No. 1020.
Salt Lake City, via Portland, Oreg.	.....do.....	120	4,066	Pennsylvania, Chicago & Northwestern, Union Pacific, Oregon Short Line, Oregon-Washington Railroad & Navigation Co., Portland, Oregon-Washington Railroad & Navigation Co., Oregon Short Line.	Countiss's I. C. C. No. 1020 to Portland and Oregon-Washington Railroad & Navigation Co. I. C. C. No. 418, Portland to Salt Lake.
Salt Lake City.	.....do.....	101	2,424	Pennsylvania, Chicago & Northwestern, Union Pacific, Oregon Short Line.	Countiss's I. C. C. No. 1020.
Portland, Oreg.	Newsprint paper.	75	3,177	Pennsylvania, Chicago & Northwestern, Union Pacific, Oregon Short Line, Oregon-Washington Railroad & Navigation Co.	Countiss's I. C. C. No. 1020.
Salt Lake City, via Portland, Oreg.	.....do.....	120	4,066	Pennsylvania, Chicago & Northwestern, Union Pacific, Oregon Short Line, Oregon-Washington Railroad & Navigation Co., Portland, Oregon-Washington Railroad & Navigation Co., Oregon Short Line.	Countiss's I. C. C. No. 1020 to Portland and Oregon-Washington Railroad & Navigation Co. I. C. C. No. 418, Portland to Salt Lake.
Salt Lake City.	.....do.....	101	2,424	Pennsylvania, Chicago & Northwestern, Union Pacific, Oregon Short Line.	Countiss's I. C. C. No 1020.
Portland, Oreg.	Bags and bagging (burlap, jute, etc.).	[3] 85	[3] 3,177	Pennsylvania, Chicago & Northwestern, Union Pacific, Oregon Short Line, Oregon-Washington Railroad & Navigation Co.	Countiss's I. C. C. No. 1020.
Salt Lake City, via Portland, Oreg.	.....do.....	136	4,066	Pennsylvania, Chicago & Northwestern, Union Pacific, Oregon Short Line, Oregon-Washington Railroad & Navigation Co., Portland, Oregon-Washington Railroad & Navigation Co., Oregon Short Line.	Countiss's I. C. C. No. 1020 to Portland and Oregon-Washington Railroad & Navigation Co. I. C. C. No. 418, Portland to Salt Lake.
Salt Lake City.	.....do.....	[4] 114	[4] 2,424	Pennsylvania, Chicago & Northwestern, Union Pacific, Oregon Short Line.	Countiss's I. C. C. No. 1020.

[1] 75=4.46 mills. [2] 110=9 mills. [3] 85=5.3 mills. [4] 114=9.4 mills.

STATEMENT OF MR. GEORGE P. WILSON, COMMISSIONER OF TRANSPORTATION, PHILADELPHIA CHAMBER OF COMMERCE.

Mr. WILSON. Mr. Chairman and gentlemen, I am commissioner of transportation of the Philadelphia Chamber of Commerce, and I speak also in behalf of the Chamber of Commerce of Trenton, N. J., and the Pennsylvania State Chamber of Commerce.

I share very largely in the views expressed by some of the witnesses who have preceded me that a rigid application of the fourth section of the interstate-commerce act will have the effect of forcing the carriers to advance their rates between the larger centers, rather than to reduce the rates at the intermediate points.

There was a statement made by one of the witnesses, I think, that the port cities should be allowed only the benefit that might be derived from their location by the use of the water lines operating from such ports. It does seem to me that if water lines are operating from port cities the rail carriers who are in position to take the traffic between those ports and who can do so at a higher rate than the out-of-pocket cost ought to be permitted to compete for that traffice, and the shippers located at such port cities—shippers and consignees, particularly those who have individual sidings—should be able to share in the benefit that would be derived from the reduced rates that have been produced owing to this water competition.

Senator STANLEY. I would like to have you divide those two propositions. In the first I concur, but in the second I am not prepared to concur. A shipper located at a point where there is water competition is entitled to his natural advantages. If the Interstate Commerce Commission takes no control over water carriers, will he not have the benefit of all natural advantages, no mattter what you do with the long and short haul clause?

Mr. WILSON. The rail carriers, not making, probably, the same rates as the water carriers, but making a depressed rate in order to meet this competition, in my judgment, should be permitted to do so, and the shipper would have the benefit of the two routes—to ship either by water or by rail.

Senator STANLEY. That is not an answer to my question. If the shipper locates his factory upon a navigable stream and the Interstate Commerce Commission takes no control over those water carriers, he has all the advantages of his natural location, whether any railroad comes there or not. Then if a railroad does come there and gives him a preferential rate he has the benefit of a dual advantage. He already has the advantage of being located on navigable water, and do you think he is entitled to a discrimination in the rail rate also? One advantage is by virtue of an act of God, but the other is by virtue of an act of the railroad. Now, is he entitled to both advantages, and, if so, why?

Mr. WILSON. It is my opinion that if the rail carriers should, for any reason, decide that they will meet the competition which the water line has created, all the shippers in that city should be permitted to enjoy the competitive rates and service which are afforded to them.

Senator STANLEY. Why? Why should the railroads give an advantageous rate or a discriminatory rate to a man who can ship by water? What natural right has a shipper to a preferential rail rate because he can ship by water?

Mr. WILSON. He should be permitted to avail of that advantage, in my opinion, because the situation is there. I am assuming that the rail carrier did not create the competition. The competition was there, and they met it. It is my judgment that the shipper should be able to participate in the benefits of that competition.

Senator STANLEY. But what right has a shipper to a lower rate by rail because he has an opportunity to use the water? You say he ought to have that right, but why? What right have I, located on the Ohio River, to a lower railroad rate than a fellow located 10 or 20 miles from the Ohio River? What moral or physical or ethical or any other kind of right have I to go to a railroad, by any rule of reason, and say, "Give me a lower rate because I am on the river"? From the railroads' point of view, they may have to do it in order to get some of the business; but I am talking about the shipper's right to a lower rate. You say the shipper has that right?

Mr. WILSON. I think the shipper should be permitted to participate in the benefits to be derived from that.

Senator STANLEY. Why?

Mr. WILSON. Because I thing any shipper should have the benefit and advantage of all available routes and markets that he can reach properly.

Senator STANLEY. Should he not have the same advantage if he is 20 miles farther inland? What better claim has he on the railroads, being on the end of its line, than if he were located at a point in the middle of the line of that railroad? What right would I have, because I happened to be located at the end of a railroad line, to demand a lower rate than the fellow in the middle of that railroad line? What right has the shipper to demand that—not the railroad?

Mr. WILSON. I am not assuming that the shipper demands it. He receives it.

Senator STANLEY. What right has the shipper to receive it?

Mr. WILSON. Perhaps I do not understand you, sir; but I can not disassociate the one interest from the other.

Senator STANLEY. That has been the great trouble with many of you gentlemen who have appeared before the committee. They have not been able, apparently, to differentiate the rights of the railroad and the interests of the shipper. They are, however, very different, to my mind.

Mr. WILSON. I am convinced that between many points where such competition exists, neither the railroad carrier nor the water carrier could transport all the freight that is offered. That is so in some cases, if not in others; and where that is so the shipper should have the advantage of using either one of those transportation agencies.

Senator STANLEY. Would he not have that same right at a higher rate? Is a shipper's advantage regulated by the cost of transportation?

Mr. WILSON. It may be. I heard you make the suggestion several times that there might be two routes between two points—a long route and a short route—and there might be a difference in the rate,

and that when the short route becomes congested and the traffic is diverted to the longer route, the man who uses the longer route should pay a higher rate. Now, is it not possible—and I think it is—that in the same locality there are competitors in the same markets at destination? If one man or one set of men use up all the transportation facilities of the short line, and cause a congestion, is it fair to the man who must use the long route to penalize him by applying a higher rate?

Senator STANLEY. You do not penalize him. The railroads are in the nature of public utilities. A railroad tariff is a tax just as essentially as an income tax, and every man has a right to have that tax equitably distributed and if one manufacturer has a natural advantage over another manufacturer, by being closer to his source of raw materials, or closer to his customers, he is entitled to that advantage, and it is no business of the railroads to mother industries, and to say that this or that industry shall prosper, and that this or that industry is entitled to a lower rate or a higher rate.

I do not accept that principle as at all correct. It was assumed all through the steel corporation investigation and taken as a premise that it is the business of the railroads to equalize industries and to adjust freight rates in such a way as to keep this or that factory going, because one of them might go out of business if the rates were based upon the service rendered or the length of the haul, instead of some arbitrary reduction. Now, I do not think it is the part of the railroads to concern themselves as to whether industries will prosper or not. It is rather their business to find out how much it is worth to haul a ton of freight a mile, and to charge that rate and then let the industries spring up according to their natural advantages, and not according to the obiter dictum of the railroad.

Mr. WILSON. All the while I have been thinking of two men located in exactly the same city, whom I believe should have the benefit of both water and rail transportation. I infer from your latter remarks that you have in mind the man at the interior point, who is disadvantaged by the higher rate. I may have misunderstood you, but that was my understanding. I come from a district which is densely populated, and in which the traffic hauled is perhaps as dense as, and maybe more so than, practically any other section of the country.

Reference was made a few moments ago to the fact that one of the witnesses testified to a difference of only a few cents per ton, while he gave evidence with respect to rates for traffic hauled a long distance, and where the measure of the rate was greater, and the measure of the difference was very much greater. It is possible in our territory, for a few cents per ton, to divert the traffic from one line to another line. The public-service corporation law of Pennsylvania to-day has a very rigid long-and-short-haul clause, but there is a bill now before the legislature to modify that and to make a flexible long-and-short-haul rule, similar to the present fourth section of the Interstate Commerce Commission law, and most of us are hoping that will go through.

Senator STANLEY. Right in that connection there are a number of blast furnaces in Pennsylvania located between Erie and Conneaut, the points at which the raw material is delivered from the Mesabe range.

Mr. WILSON. Yes.

Senator STANLEY. Pittsburgh and Connellsville are the places where they get their coke, so that these blast furnaces get their ore from the Lake ports and get their coke from Pittsburgh, and they automatically adjust the rate on ore and the rate on coke so that each blast furnace, no matter where it is located along the railroad, has an identical cost in assembling its product. There is no pretense made that the charge for the service is commensurate with the cost of it. If a man is located 100 miles from Conneaut and 600 miles from Connellsville, they figure the cost of his assembling the same as if he were 100 miles from Connellsville and 600 miles from Conneaut, so it does not matter whether the blast furnace is wisely or unwisely located, it can run successfully anywhere along that line. Now, that is all very good for the transportation companies, and very good for the steel companies, but how about the fellow who is paying for the pig iron?

Mr. WILSON. Do you not think he is advantaged if the cost of assembling the material at the various producing points is equalized?

Senator STANLEY. No; not at all.

Mr. WILSON. Is he not likely to get his finished product cheaper?

Senator STANLEY. No; because Mr. Schwab figured it out that if they had put their blast furnaces at Conneaut and Erie, where they move out some empties to go and bring the coke back, it would have saved the public 20 per cent in the cost of steel, and he attempted to do that very thing, and that is the reason they paid Mr. Carnegie $500,000,000 for about $75,000,000 worth of property—to prevent that very elimination of cost in production. That was done in the teeth of the plainest economy. It was shamefully wasteful, and that is admitted by everybody now who has investigated the subject.

Mr. WILSON. I am not informed on that situation, and would not be competent to answer the statement as made.

Senator STANLEY. In other words, they did not utilize their empties at either end of the line. You can see that. You are a railroad man.

Mr. WILSON. I am not familiar with that situation. After the passage of the rigid long-and-short-haul clause of the public-service act there were many adjustments of rates made by all of the carriers. Two things happened: Roads that could serve industries and cities and communities very satisfactorily were compelled to retire from certain traffic because of the immense volume of traffic moving between the intermediate points which they could not afford to sacrifice. On the other hand, there were many rates advanced at the interior points and at the objective points in order that the level might be maintained and the law complied with; both of which had the effect of causing somebody to pay more for his transportation than he otherwise would have had to pay. The larger industries in our territory are very largely served by the railroads with their own private sidings, and if a man can not have an adjustment of rates that will permit him to utilize his own private siding he must then either pay a penalty by hauling it to the line that has the cheaper rate or he must pay the higher rate by the longer line. Now, within reasonable bounds, it would seem to me that the public interest is better served by having the two lines between the two communities partici-

pate in that traffic than to undertake to force it to one line, probably to the serious detriment of the public and all the shippers who might use that line if they could, but who can not do so because of the congestion.

As I have listened to this testimony I have been more than ever convinced that the Interstate Commerce Commission should have jurisdiction over the port rates of these water lines. I think a good start in the direction of elimination of some of these conditions which have been pointed out to-day during this hearing would have been made had the commission had authority to control the rates of these water lines, because some of the competition has not been of the best kind. Lines have come along and taken freight and then gone out of existence, thereby creating a rate situation which had to be remedied afterwards. I also feel that before a bill such as this becomes effective there should be a law which should provide that the carriers must interchange freight with each other in each terminal city where physical connection with such lines is made.

Senator STANLEY. You mean reciprocal switching arrangements?

Mr. WILSON. Yes; universal reciprocal switching arrangements. Otherwise, shippers having a siding connection with a road reaching the market will have an undue advantage over a man who is not so located. There are very few reciprocal switching arrangements, comparatively, in our section of the country.

Senator STANLEY. Just before I left the House, four years ago, that question was up. I had a bill before the Interstate Commerce Committee in the House to compel that sort of a thing in Louisville, Ky. Has there been any sort of a decision recently by the Interstate Commerce Commission on that matter of making reciprocal switching compulsory?

Mr. WILSON. Only in such instances as particular matters have been brought to their attention.

Senator STANLEY. There never has been any general order?

Mr. WILSON. No. I think, Mr. Chairman, that is all I wanted to say.

The CHAIRMAN. Then we will hear Mr. Wettrick.

STATEMENT OF MR. S. J. WETTRICK, ATTORNEY FOR THE TRANSPORTATION BUREAU OF THE SEATTLE CHAMBER OF COMMERCE AND COMMERCIAL CLUB, SEATTLE, WASH.

Mr. WETTRICK. Mr. Chairman and members of the committee, I shall try to be as brief as I can, because, as the chairman has stated, I have appeared at other hearings on this same question, and were it not for the fact that in these matters the transcontinental situation is more particularly emphasized each time probably than any other situation in the country, I would not have very much to say.

I am the attorney for the Transportation Bureau of the Seattle Chamber of Commerce and Commercial Club, and, as I said, I Chamber of Commerce and Commercial Club, and, as I said, I just want to briefly present some of our views on this question.

I think it might be well if I began with a suggestion that was made when Senator Stanley wanted to know in effect what right a city located upon the water at a competitive point has to anything more than the water rate. Now, the situation, as I view it,

is this, Senator: We are located upon the water where we have the benefit of water transportation, which is the cheapest transportation known. If it were not for that fact we would not have before us the question of the railroads having to meet water competition.

All we say is this: Do not enact a law which will prohibit the carriers from meeting at the Pacific coast cities, or at any other point, the natural conditions which exist and which they must meet if they are going to do business there. In other words, if you permit the natural forces which exist to operate, and do not, by an artificial law, restrict the carriers and tie their hands, we know that we will have water competitive rail rates, and that we will have wholesome competition between rail and water lines; and, as I shall attempt to point out to you, they are benefits which we can enjoy without the slightest disadvantage to the intermediate communities.

Please understand that my purpose is not at all to keep up the rates which the intermediate communities are paying. We have no concern with them. All we want is that the natural conditions which exist where we are located shall be permitted to operate; and, as has been repeatedly stated here, I am satisfied that it is to the best interests of everybody concerned, and of the country as a whole that they be permitted to do that. The situation, as it appears to me, is simply as follows:

Spokane, to use it by way of illustration because it is the most important intermediate and closely located to Seattle, is not located upon the water, and, therefore, in the nature of things, no matter what law you may enact, can never have the benefit of the cheap transportation which water affords. Not being located upon water, it has always appeared to me that in this offensive which they are carrying on all the time they are trying to equalize their natural disadvantage with the natural advantages of the coast cities, by depriving the latter of water competitive rail rates, because they can not have them themselves. So I say that if there is anybody here who is seeking a preference other than that which natural conditions would give him, it is the intermountain shipper, in seeking to prevent the railroads from meeting water competition at the coast cities, rather than that we are asking for something that natural conditions do not entitle us to.

But the only way that the intermountain cities can, through this law, equalize with the coast cities will be if its result is to keep the steamship rates at a much higher level than they would otherwise be, because there is no competition to keep them down. Assuming that there will be enough steamship competition between the two coasts so that competition among the steamships themselves will force the rates down to a water level, then no matter what you may do with the long-and-short-haul bill, the situation, so far as the relationship of rates between the intermountain cities and the coast cities is concerned, will be exactly what it was before, and the only difference will be that instead of dividing up the traffic between the steamship lines and the railroad lines, and using both means of transportation, the coast cities will ship their freight by the water lines, and, in the nature of things, will therefore have the same advantage so far as rates are concerned.

Senator POINDEXTER. If this bill should go into effect, you say that you would be deprived of water competition. In other words, I assume you to mean that all of the business would go to the water lines and the water lines would put their rates up. Now, you would get your freight hauled at the same rates, and we will assume with as good service; but if the service should deteriorate, and if it should be sufficiently bad to justify you in paying a little higher rate to get your goods over the railroads, you would do that, would you not?

Mr. WETTRICK. We might do that, if the difference in the rates were not too great. There are some commodities that will probably always move by rail. There are other commodities—by far the larger part of the traffic between the East and West—that will move by water, if there is any material difference in the rates. If the railroads are not permitted to make competitive rates at Pacific coast terminals, the steamship lines, when they return to the coast to coast service, might, through some gentleman's agreement or otherwise, put their rates at a point just far enough below the rail rates to control the business.

Senator STANLEY. What is your warrant for saying they might?

Mr. WETTRICK. Well, Senator, frankly I do not believe that will be the situation, but what I was saying is this: Assuming that that will not be the situation, then, do you not see, we will have rates at a water-level basis, will we not?

Senator STANLEY. If they do not raise them?

Mr. WETTRICK. Yes. We will be able to get our goods from the East by water—goods that we distribute in competition with interior cities—so that even if they do prevent the railroads from participating in this traffic and making whatever they can on it, we still have the same advantage over them, which absolutely can not be taken away from us by any law.

Senator STANLEY. Then, everybody would be satisfied.

Mr. WETTRICK. Would everybody be satisfied? I do not think it is necessary for me to reiterate the argument that has been made here that in order to maintain the transcontinental lines it might be necessary to charge the intermediate points higher rates. It is an advantage to us, aside from the fact that it might tend to keep down the steamship rates to a basis where they ought to be, to have the railroads in a position to serve us. For one thing, it opens up to us increased markets of supply where otherwise we might be confined to the seaboard more largely. Now, that is an advantage we can enjoy without doing the slightest harm to the interior cities. Furthermore, the railroads reach the industries throughout the cities, whereas the steamships tie up beside their docks. That is another advantage we can enjoy and which does them no harm whatever. But, aside from that, the transcontinental lines—and I am not going to discuss the matter of the reasonableness of the present rates, or whether this rate ought to be lower or that rate higher—I do not think that is the question before this committee.

The proposition is absolutely correct, and it has been demonstrated here time and again that as the rates to Pacific coast terminals are now as high as or higher than the rates to intermediate points, that having been brought about through a decision of the Interstate Commerce Commission, because there are no steamships operating between the two coasts now, when the steamships return to the coast to

coast service, with the vessels they had there before, or with even half the vessels they had there before, the freight will move by water and the transcontinental lines will lose it, unless they are permitted to reduce their rates, assuming that the water rates are going down.

Senator STANLEY. Ought they not to lose it if the steamship lines can carry it at a less cost?

Mr. WETTRICK. I do not think they can carry it at a less cost than the additional cost it would involve on the part of the rail carriers.

Senator STANLEY. That is not an answer to my question. If the steamship lines can carry it at a much less cost, having the advantage of water transportation, why should they not carry it? If these boats that have been constructed by the Government can convey a ton of freight from New York to Seattle for 40 per cent less than you could haul it over the mountains, why should Congress or the Interstate Commerce Commission or anybody else compel that freight to be carried at a higher rate?

Mr. WETTRICK. We are not asking for them to be compelled to carry it at a higher rate.

Mr. STANLEY. The giving of plenary power to the Interstate Commerce Commission, under this section, is license to carry it at a higher rate.

Mr. WETTRICK. I take it that you mean the granting of permission to the carriers to depart from the fourth section?

Senator STANLEY. Yes; to violate the law.

Mr. WETTRICK. Let me answer your question: The principle whereby a carrier is permitted to take freight to a farther distant point at a lower rate, as long as it can make something over and above the additional cost of transporting the freight, is based upon the law of decreasing costs. These lines extend to the coast, and they have terminals there, and they operate them anyhow, and after their fixed charges are paid, they can take this additional traffic and make some profit on it in competition with water line, at very low rates; so my answer to your question would be that we are not permitting an uneconomic thing to be done when we permit the railroads to make these water competitive rates, on the theory that water rates are cheaper; but we are permitting the railroads to use their facilities, which already exist, to their full capacity, and they can haul this additional traffic and make some profit on it, at a cost the same as or less than the cost of water transportation.

The CHAIRMAN. That is the very point that has always given me concern about this question. Let me give you an extreme case, which may not be exactly parallel, but it will illustrate the idea in my mind. The Northern Pacific runs into Seattle. Suppose there is a factory there, of any kind, which it is serving. Now, another capitalist comes along and says to the Northern Pacific, "I would go into that same business if I could get better rates than are now prevailing; better than those now in the business are getting." And the Northern Pacific says to that promoter, "All right. It will not cost me any more. I have got to run my trains anyhow. It will not cost me appreciably more to put on another car day after day, and so I will agree to give you a rate that is less than the one your competitors are receiving." Now, why should not they do that if they are permitted to do business upon the theory that they can take any addi-

tional business that may exist, at any rate that will defray the out-of-pocket cost?

Mr. WETTRICK. Senator, if I may answer you on that in this way, I do not think the two illustrations are parallel or identical. If the second man who came there with the intention of establishing a factory had something like water transportation, or some other element or factor which, in the very nature of things, would give him an advantage over the first man—as is the case with the Pacific coast cities over the inland cities—then the man first there would not be injured or discriminated against if the railroad gave the other man that which he would have anyhow, and no harm would be done to the first man. In other words, that would not be undue discrimination.

The CHAIRMAN. I am assuming that Spokane and Seattle are served by the same railroads and that they are competing for the same business.

Mr. WETTRICK. There is no question about that.

The CHAIRMAN. There must be some ethical rule or principle that underlies the obligation of a common carrier to the people, and I have always supposed that that principle was the cost of the service; that each man to whom the service was rendered should pay in substantial proportion to the cost of that service, and that if a carrier renders a service to one man or to one community for less than it renders it to another man or another community, the cost being the same in each case, that is what discrimination really means.

Mr. WETTRICK. Of course, the idea of basing rates on the cost of service, Senator, must yield, and does yield, to other considerations.

The CHAIRMAN. I agreed to that.

Mr. WETTRICK. Undoubtedly freight can be hauled from Chicago to Spokane for less than it can be hauled from Chicago to Seattle by rail. I will admit that; but freight can be hauled from New York by water to Seattle for much less than it can be transported from New York to Spokane by rail. Now, that is the condition which exists, and unless you permit the Northern Pacific, for instance, to meet that condition, it will lose the business and whatever it could make on a competitive rate; and, instead of the interior community being benefited by the hard-and-fast rule of the cost of service, it is really injured.

Senator STANLEY. As I understand, you have a natural advantage by sea that nobody can take away from you; and, having that natural advantage by water, you think you are also entitled to an artificial advantage by rail?

Mr. WETTRICK. No; I do not think it is an artificial advantage. Would it not be correct to say that whatever advantage a natural condition gives you is a natural advantage? I do not think you can say that the product of a natural advantage is an artificial one.

Senator STANLEY. I did not say that. You have a natural advantage by water?

Mr. WETTRICK. Yes.

Senator STANLEY. But you have an artificial advantage if your freight is hauled by rail from Boston or New York to Seattle for less than it is hauled to Spokane, which is intermediate and on the same line. If they haul freight 3,000 miles to Seattle for less than they haul it 2,500 miles to Spokane, you have an artificial advantage, have you not?

Mr. WETTRICK. I do not think what you have mentioned determines whether or not it is natural or artificial. I say that if natural causes are permitted to operate at the Pacific coast cities, we will have water competitive rail rates.

Senator STANLEY. You have that and you are entitled to it.

Mr. WETTRICK. I mean that the natural conditions would force lower rail rates, and we would have that natural advantage as well.

Senator ROBINSON. Then, why do you take into consideration the cost of transportation on the railroads at all? Supposing, for the sake of argument, that the water rates were such that in order to meet the competition the railroad would have to do business at a loss; why should it not be permitted to do that, just as well as at a rate that will meet the out-of-pocket cost alone but will not represent a profit?

Mr. WETTRICK. If the steamship rates go so low that the railroads can not make competitive rates and make a profit on them, then they must go out of business.

Senator ROBINSON. But the out-of-pocket cost is all that they into consideration at all, when you yourself admit that the profit may be merely nominal?

Mr. WETTRICK. If they did business at a loss, manifestly they would have to burden the intermediate traffic. As long as they make some money out of it, they benefit the intermediate traffic, because the intermediate traffic does not have to make up what the railroads make at the terminals.

Senator ROBINSON. But the out-of-pocket cost is all that they get?

Mr. WETTRICK. No.

Senator ROBINSON. The intermediate point must make up the interest and the dividends?

Mr. WETTRICK. When I say "the out-of-pocket cost", of course, Senator, I do not mean five or ten cents, or anything of that kind, over the actual cost of doing the business, but it actually runs into millions with the transcontinental lines

Senator POINDEXTER. Do you claim the right to have a rail competitive rate water point is a natural advantage?

Mr. WETTRICK. Yes; I do.

Senator STANLEY. He claims that if they do not haul it practically at cost to the water competitive terminal, they would lose their traffic, without any advantage to the intermediae points, and that the rates to those points would be the same any way. That is what you contend, is it not, Mr. Wettrick?

Mr. WETTRICK. I do not know that I got your thought, Senator.

Senator STANLEY. I say you claim, if you claim anything, as I understand, that shipments from Boston and New York to Seattle are at cost, or practically at the cost of the service, and that if they did not do that hauling they would be no richer and no poorer?

Mr. WETTRICK. No; that is not what I claim.

Senator STANLEY. And that the cost to the intermediate points would be the same, whether they had that privilege or not?

Mr. WETTRICK. No; that is not what I claim at all. I am not asking that the carriers should be permitted to do this work for fun—not at all. The Interstate Commerce Commission has laid down principles which govern in determining these matters. They say

that the carriers, in order to justify a lower rate at the farther distant point, must show that the rate they propose to establish will net a substantial amount above the ou-of-pocket cost. There would not be any object, of course, and I am not contending that they should be permitted to do so, in handling business simply at the cost of the service; and when you come right down to it, I think sometimes that this entire question could be answered by simply asking, why do the transcontinental railroads, or any other railroads, make lower rates to competitive points than the rates to intermediate points, or lower rates than might be regarded as reasonable rates? Why do they make subnormal rates? For no other reason on earth, except that they have to do it if they want to do business at those points, because the natural conditions at those points compel them to do it. You gentlemen know that the railroads would not haul freight to Seattle for less than, or even for the same as, to Spokane, if they did not have to do it.

Senator POINDEXTER. Do you think the railroads ought to be subsidized in order to enable them to do that?

Mr. WETTRICK. What is that, Senator?

Senator POINDEXTER. To carry goods to Seattle at a rate that will meet the water competitive rate?

Mr. WETTRICK. I am not claiming that at all; on the contrary——

Senator POINDEXTER. When they are allowed to make a rate which you call a "competitive rate," but which is really a prohibitory rate, so far as driving water competition out of existence is concerned, and then to recoup themselves by higher charges to the intermediate points, that is, in effect, a subsidy which is levied upon the intermediate points in order to enable them to drive water competition off the seas?

Mr. WETTRICK. Oh, that is not the question, Senator; but since you have raised that point I want to address myself for just amoment to the question of water competition between the two coasts. I read your report in this matter very carefully, and it seems to me that it has been so conclusively demonstrated that during the last 8 or 10 years there has been such abundant water competition between the two coasts, except since the war commenced, that it is time we quit harking back to the old days when the transcontinental lines actually did drive the coast-to-coast steamships out of business. That condition does not, and can not, exist any more, for several reasons.

In the first place, neither the transcontinental lines nor any other railroad can own a competing steamship line, as they used to own them in years gone by. In the second place, if they reduce their rates to meet water competition, they can not afterwards advance them. In the third place, they can not reduce their rates nowadays to meet water competition without the sanction and consent of the Interstate Commerce Commission, and they must show the Interstate Commerce Commission that their rates are no lower than is necessary to attract a portion of the traffic, and that the rates which they propose to establish will net them a revenue which can be applied to the diminution of their expenses; to decreasing the burden on other traffic, rather than the contrary. So you have the situation absolutely controlled.

Senator STANLEY. Say that the rate from New York to Seattle is 7 cents per 100 pounds, and that the rate to Spokane is 17 cents. If

it be true that the 7-cent rate is a fairly remunerative rate, what are you going to say about the 17-cent rate?

Mr. WETTRICK. Of course, that is talking about the reasonableness of rates, and I am not here trying to justify a 7-cent rate or a 17-cent rate. My suggestion would be that the Interstate Commerce Commission is an expert body with full and complete knowledge of these conditions, and that they have all the power that is necessary—unless it be the additional power to fix minimum rates—to control this entire situation. Just permit me to address myself briefly to the matter of the competition between the two coasts, and if we do not do anything else in these hearings, I hope we will get away from the idea that within recent years the transcontinental railroads have been driving the steamships between the two coasts out of the service, because that is absolutely not correct. On the contrary, during the last, say 8 or 10 years, the steamship competition between the two coasts has been such that they have been setting the pace to such an extent that the transcontinental lines have been before the Interstate Commerce Commission begging permission to make lower rates at the terminals, in order that they might attract a part of the traffic, without reducing their rates at intermediate points to the same level.

After the Panama Canal opened up the steamship compenies made a rate from New York to the Pacific coast cities on structural iron and steel as low as 25 cents. Then they put it up to 30 cents, and I think finally it lodged at about 40 cents, and steel moved from Pittsburgh to New York, then by water to Seattle and then by rail to Spokane cheaper than it could be moved direct to Spokane by rail.

Senator STANLEY. Was that a regrettable thing?

Mr. WETTRICK. Not at all, but the immediate effect was a reduction in the rate from Pittsburgh to Spokane. Why? For exactly the same reason that the reduction to the Pacific coast terminals was made—to meet the reflected water competition at Spokane.

I want to say to you, Senator Poindexter, in all seriousness—because you represent the State of Washington—that, in my opinion, that great State will be much better off under the present long and short haul clause, under which competition between the rail and the water lines may exist, than it ever can be under an absolute long and short haul clause—and I say that not only because the larger part of the population is in the western part of the State, but because the State of Washington is located so near the ocean that the whole State, including the city of Spokane, will get the benefit of water competition, and lower rail rates will be forced by that condition from Pittsburgh and Cleveland and Chicago.

Senator POINDEXTER. You spoke of Spokane being benefited by the arrival of a cargo of structural steel, I think it was, at Seattle, at a rate so low that they could add the local rate back to Spokane and make the total cost to Spokane cheaper than by rail. That was a benefit coming from having a ship arrive at Seattle with a cargo of structural steel. Do you think it would hurt Spokane or hurt Seattle to have a number of ships arriving there with structural steel and other commodities to be consumed?

Mr. WETTRICK. No, not at all; and, as I was just saying a moment ago, there were plenty of ships. This steel did not come there by water of its own volition. Mr. Fitzpatrick, of the Union Iron Works,

knowing that he could save money, routed his shipments that way. Now, that is an instance of the benefit that the shippers at Spokane derive because of water competition between the two coasts. Of course, he would have that under any condition, just as we will have, but what harm was done when the railroads were permitted to make a rate from Pittsburgh to Spokane that substantially met this round-about water rate over which Mr. Fitzpatrick was shipping? Absolutely no harm, because it gave Spokane a competitive advantage the same as it gave us.

Senator POINDEXTER. Mr. Fitzpatrick does not agree with you about that matter. I know him very well, and he is very anxious for this bill to pass.

Mr. WETTRICK. That may be true; but Mr. Fitzpatrick will not deny that what I am stating here is true, because he testified to that effect in a hearing before the Interstate Commerce Commission in which the railroads sought to increase the rail rate from Seattle to Spokane, and we had it suspended and kept it at 30 cents instead of having it increased to 40 cents, and he was interested in maintaining the 30-cent rate there, because he was shipping structural iron and steel that way from Pittsburgh.

Senator STANLEY. Did any of the steamship lines deliberately lower their rates to a point where the transcontinental railroads could not meet their rates?

Mr. WETTRICK. I do not know whether they deliberately did that. There were many ships in the Pacific-coast service, and I think the first spurt after the canal was opened resulted in the making of some rates that were lower than was necessary.

Senator STANLEY. They put them lower than the transcontinental rates to Seattle for semifinished steel?

Mr. WETTRICK. Yes, sir; very much lower.

Senator STANLEY. How do you justify the belief that, without any legislation of this kind, those steamship lines lowered their rates upon traffic they knew had been moving for years at much higher rates, but that upon the passage of this bill you think they will pursue a different policy?

Mr. WETTRICK. No. I said I thought the competition between the steamships themselves would be such that the rates would go down to a water level. I also said that, if we do have that water level of rates, in the nature of things we will have an advantage over the interior cities; and what harm is done to them if the railroads are permitted to haul a part of that traffic? I can not see that it makes any difference to them at all, or that it can make any difference, because the Spokane jobber who gets the same goods from the East as the Seattle jobber, pays his railroad rate. What does he care?

Senator ROBINSON. Why is the Seattle jobber so interested in securing a rail rate?

Mr. WETTRICK. I have gone over that, Senator, in the first place, by stating that we are not so sure what might result if we did not have rail competition.

Senator ROBINSON. But you have just stated you do not think that would result.

Mr. WETTRICK. All right, then; conceding that, I have already mentioned a number of other things.

Senator ROBINSON. You need not repeat them if they are in the record.

Mr. WETTRICK. One of them, as you will recall, was that it opens to us additional markets of supply and selling markets.

Senator STANLEY. Do you think it would hurt the Spokane man if the Interstate Commerce Commission should say to the railroads that they might handle your goods free of charge?

Mr. WETTRICK. I certainly do.

Senator STANLEY. Why? He would get the same rate anyway.

Mr. WETTRICK. Who would get the same rate?

Senator STANLEY. The Spokane man and the other fellows inland.

Mr. WETTRICK. I thought I answered that a while ago. I do not make any such contention as that at all. I have already said that these transcontinental lines must charge high enough terminal rates to net them some profit.

Senator STANLEY. How can you argue that one differential will not hurt them but another differential will? What difference does it make to the man who is suffering from that differential whether the differential entails a loss on the railroad or not? If the differential is harmful it is harmful, no matter what the rate.

Mr. WETTRICK. The differential that I am talking about is one that yields a profit to the carriers. It is something over and above what they would otherwise make.

Senator STANLEY. Is the shipper concerned with the profit to the carrier or with the differential?

Mr. WETTRICK. The shipper is concerned with the profit to the carrier in that case, because if the carrier does not make a profit in this competitive traffic at the Pacific coast terminals, he will have to make it up at some other place. If you permitted him to haul it to the Pacific coast terminals at less than cost, so that he would be losing money, you would be casting the burden of that loss on the intermediate communities; but nobody would try to justify that. There is all the difference in the world between a rate on which a carrier makes some profit and one on which it is doing business at a loss. We would not for a moment claim that we were entitled to the latter.

Senator POINDEXTER. I understand that you feel that the passage of this bill, while it would not hurt Seattle at all, would be very injurious to the railroads and to Spokane?

Mr. WETTRICK. No; but I think we have less to fear from a long-and-short-haul clause than Spokane.

Senator POINDEXTER. You represent Seattle?

Mr. WETTRICK. Yes; and, as indicating that our interests are not at all selfish in this matter, I claim that what I am contending for here is in the interests of the city of Spokane, as it is in the interest of the whole State of Washington—and I firmly believe that. If the transcontinental lines must let all this traffic move by water, they have got to make up their revenue at some other place. If they do not make it up on intermediate rates, they may have to do it on the rates on products which Washington is shipping to the East, or on the distributive rates out of Seattle and Spokane. It seems to me that it must be clear that if you deny the railroads the right to compete for traffic on which they can make some money, though perhaps not as much as they ought to make, they must make it up at some other place. We have an abundant interest in this

matter, although I do not think it is as vital to us as to the interior cities, because if we can not bring our goods there by rail rates that are the equivalent of water rates we will use the water.

Senator STANLEY. Have you ever figured just how much would be lost to the inland shippers by refusing the railroads permission to do business at cost?

Mr. WETTRICK. Nothing would be lost, if you just refused to let them do business at cost, but whatever they can make over and above normal operating expenses, by meeting water competition, is just that much better for all concerned.

I have referred to the low water rates. That was not only on structural iron and steel, but sometime after the opening of the canal there were 6 regular steamship lines engaged in the coast-to-coast service, operating 49 ships, with a total capacity of over 380,000 tons, and that is set forth in the decision of the Interstate Commerce Commission. It was shown that the total tonnage moving by water from the Atlantic to the Pacific coast and to the Hawaiian Islands in 1911 was 397,974 tons; in 1912, 451,582 tons; in 1913, 434,115 tons, while for the month of September, the first full month after the opening of the canal, it was 77,915 tons. That was in a decision of the commission in Fourth Section Application No. 205, 32 I. C. C., page 620–21, rendered January 29, 1915.

The CHAIRMAN. Mr. Wettrick, you may have reprinted in this record the testimony that you gave in San Francisco.

Mr. WETTRICK. Thank you, Senator; or that which I gave before the Senate committee here previously?

The CHAIRMAN. Yes.

Mr. WETTRICK. I just stated what the result of the transportation through the canal was the first month after it was opened, and figures since obtained show that during the first full year after the opening of the Panama Canal the tonnage which moved between the Atlantic and the Pacific coast ports by water was 1,049,990 tons, which verified the prediction that the commission made, based upon the first month's operation; and as indicating the intensiveness of this water competition, there were shown to the Interstate Commerce Commission instances of where 32 cars of cast-iron pipe moved from Birmingham, Ala., by rail to New Orleans and thence by water to the Pacific coast; paper from Sandy Hill, N. Y.; ketchup from Rochester, N. Y.; iron and steel originating in various parts of Pennsylvania and other points in the interior, like Wheeling, W. Va., and Youngstown, Ohio; and evidence has been presented to the Interstate Commerce Commission in other cases that freight actually moved from Cedar Rapids, Iowa, to the Atlantic coast, and thence by water to the Pacific coast ports, at lower rates, of course, than the direct rail rates would have been.

The CHAIRMAN. Mr. Wettrick, can you return here Tuesday morning?

Mr. WETTRICK. I shall do so if I possibly can.

The CHAIRMAN. I suggest that you be back here Tuesday morning at 10 o'clock, at which hour you may go on. I am very anxious that your full statement shall be in the record.

We will adjourn now until Tuesday morning at 10 o'clock.

(Whereupon, at 6.05 o'clock p. m., the committee adjourned until Tuesday, June 17, 1919, at 10 o'clock a. m.)

LONG AND SHORT HAUL BY COMMON CARRIERS.

TUESDAY, JUNE 17, 1919.

UNITED STATES SENATE,
COMMITTEE ON INTERSTATE COMMERCE,
Washington, D. C.

The committee met, pursuant to adjournment, at 10 o'clock a. m., Senator Albert B. Cummins (chairman), presiding.

The CHAIRMAN. The committee will be in order. Mr. Wettrick, you may proceed.

STATEMENT OF MR. S. J. WETTRICK—Resumed.

Mr. WETTRICK. I shall finish just as soon as I possibly can. I think I was discussing when we stopped the other day the question of water transportation between the two coasts.

I cited some figures to show how intense it became after the Panama Canal opened up. I wish to present a comment of the Interstate Commerce Commission on this situation, which shows the view that it has taken with regard to canal competition.

It has been suggested that the construction of the Panama Canal by the Government of the United States is indicative of a governmental policy to secure all of this coast-to-coast business for the water lines, and that no adjustment of rates by the rail lines should be permitted which will take away traffic from the ocean carriers which normally might be carried by them. This suggestion, however, loses force under the consideration that the Panama Canal is not one of the agencies of transportation that the Government of the United States has fostered between the Atlantic coast and the Pacific. The Government has from the beginning of railroad construction in the United States encouraged their construction and operation by private capital and enterprise. Some of these transcontinental lines would not have been built had it not been for the liberality the Government extended to them at the time of their construction. As we view it, the Panama Canal is to be one of the agencies of transportation between the east and the west, but not necessarily the sole carrier of the coast-to-coast business. If the railroads are able to make such rates from the Atlantic seaboard to the Pacific coast as will hold to their lines some portion of this traffic with profit to themselves, they should be permitted so to do. The acceptance of this traffic will add something to their net revenues, and to that extent decrease, and not increase, the burden that must be borne by other traffic. It will also give the shippers at the coast points the benefits of an additional and a competitive service.

That was in the opinion reported in 32 I. C. C., beginning at page 621, and on page 629, the commission said:

The maximum of public benefit from the fourth section will result from the enforcement of conditions that will tend to preserve and promote, and not to diminish or retard, competition. Looking at the country as a whole, but more

especially at the great producing and consuming areas in the interior, it is believed that what is herein proposed will best accomplish that end under prevailing conditions.

That is the proposition of permitting the carriers to make lower rates at the coast cities.

At the hearings that were held here a year ago last March the representatives of the steamship lines appeared in favor of the bill, their purpose clearly being to bring about a condition which would prevent rail competition in the hope, undoubtedly, that when they returned to the coast-to-coast service they could do so on higher rates than the rates which they might otherwise have to charge.

Commenting on that situation, the commission has said this:

The argument advanced by the water lines, if carried to its logical conclusion, means in effect that all traffic which may be hauled by water carriers should be reserved for their exclusive handling.

That is the argument we frequently meet, if the water lines can haul traffic cheaper than the rail lines, and more economically, why should they not do so?

As I explained the other day, the theory of permitting lower rates to competitive points than rates to intermediate points is that after the fixed charges and expenses are paid, the additional traffic can actually be hauled cheaper than it could be hauled by water, and it goes to the extent of keeping up the rail lines.

The commission continues:

The rail carriers can not maintain, under ordinary circumstances, a level of rates between the Atlantic and Pacific coasts, between the north Atlantic ports and ports on the south Atlantic or Gulf coast or between points on the Pacific coast that will be successful in securing any considerable amount of traffic in competition with water carriers without fourth section relief. We are of the opinion that the best interests of the public, of the transcontinental carriers, and of these intermountain cities in particular will be served by a policy that permits the transcontinental carriers to share with the water lines in the traffic to and from the Pacific coast ports. The lower rates to the ports, however, when necessary, must not be lower than the competition of the boats makes necessary, and must be high enough to cover, and that by a safe margin, actual out of pocket costs of securing and handling the traffic. The shippers at the coast are thereby given the benefit of competing routes and competing markets of supply. The railroads are enabled to fill up their trains with traffic which, although not highly profitable, yields a revenue materially greater than the out of pocket costs of securing and handling the traffic, thereby adding to the net revenues of the carriers and to that extent lightening the transportation burden borne by other localities.

In that connection I want to mention this fact, lest I forget it. Under normal conditions the empty car movement on transcontinental lines preponderates very strongly west bound; that is, the carriers normally haul many empty cars to the Pacific coast to bring back our products, like salmon and lumber and other products of that kind.

Now, it costs very little more to haul a loaded car across the continent than it does to haul an empty car, and that furnishes an additional reason why the carriers should be permitted to make rates at which they can haul this traffic in competition with the water. It also indicates, as I said, if their lines are in operation and they are hauling empty cars out to the Pacific coast, that they can take such traffic and actually haul it cheaper, probably, than the water carriers could handle it themselves.

Senator McLEAN. Do you know what percentage of westbound cars are empty?

Mr. WETTRICK. It varies from time to time.

Senator McLEAN. What is the average percentage?

Mr. WETTRICK. I do not know that I could give you the average percentage.

Senator McLEAN. I think it was testified to in a former hearing, something like 30 per cent.

Mr. WETTRICK. A statement was recently made in a brief filed in a case before the Interstate Commerce Commission to the effect that there were during the year 1917 as many empty cars as loaded cars hauled to the Pacific coast terminals. I have not verified that myself, and I do not know whether it is true or not.

Senator McLEAN. You need not occupy any more time on that.

Mr. WETTRICK. As indicating what the commission requires to be shown as a condition to granting fourth-section relief, particularly in connection with the transcontinental cases, I desire to quote this language which the commission uses, in its decision, in which it held that because there is now no water competition between the two coasts, no lower rates should be maintained at Pacific coast terminals.

The CHAIRMAN. We will have Commissioner Clark before us and that may make it unnecessary to quote very largely from their decisions.

Mr. WETTRICK. It is just one brief paragraph here:

When the water competition again becomes sufficiently controlling in the judgment of the carriers to necessitate the reduction of the rates to the coast cities to a lower level than can reasonably be applied at intermediate points, the carriers may bring the matter to our attention for such relief as the circumstances may justify. Competent proof must be submitted in connection with such applications of a fairly regular water service between the two coasts; the adaptability of the traffic to water competition; principal points of origin of the traffic; range of rates afforded by the water lines; principal points of consumption; and the ports upon the two seaboards at which the water carriers receive and deliver freight.

And then they say:

We are not unmindfud of the claims of the carriers concerning the disadvantage under which they labor in being unable to reduce their rates promptly when necessitated by the competition of the water carriers. One of the primary purposes of the act to regulate commerce was to preserve competition between carriers. Competition involves a striving between or among two or more persons or organizations for the same object. There can exist no even-handed striving between two persons when one is bound and the other is free, and the maximum of real and effective competition can not exist between these boat lines and rail lines when one side is free promptly to make any rate it desires, while the other is so restricted by statutory requirement as to be unable to take the necessary steps for the prompt protection of its business.

That is the situation that would exist under an absolute long and short haul clause. The water carriers would be left free to do as they please, while the hands of the railroads would be tied, and they could not meet the situation which exists.

I noticed in the Traffic World just the other day, Mr. Chairman, reference to a bill which I understand has been introduced, which would require that the carriers shall make no lower import rates than the domestic rates, I believe, from any port terminal. May I ask whether there is such a bill now pending?

The CHAIRMAN. I think there is a bill pending which prohibits the carrier from charging a higher rate from the port to the interior upon imports than upon like commodities originating in this country.

Mr. WETTRICK. The reason I mention that is because the principle involved in that measure is very much the same as the principle involved here, and the enactment of such a law would be a very serious thing to the Pacific Coast cities, and I think I can say to the western half of the United States; yes, even including the mid-western States, like Illinois, Indiana, and Ohio.

The reason low import rates are made from Pacific coast terminals to Chicago, and Detroit and Cleveland is to equalize the competition through Pacific coast ports with the competition through the Atlantic ports. Unless rates which do equalize through the Pacific coast terminals are in effect, all parts of our country would be at a disadvantage as compared with the Atlantic coast ports. The theory on which these rates have been made has been, as I say, to equalize the two coasts.

The CHAIRMAN. That bill to which you refer I suppose has for its object the prevention on the part of railway companies from taking away from domestic manufacturers all the advantages that are conferred upon them by the tariff.

Mr. WETTRICK. It goes to that, does it? I noticed that there was a similar question to that. If it relates to the question of protective tariff, then I would like to suggest this: That all that is done by these import rates is to equalize, as I said, through Pacific coast ports, we will say, on imported rubber, crude rubber, to Akron, Ohio, which is the big consuming point. You have a water rate from oriental ports to New York, and then by rail to Akron, Ohio. The rubber is going to move on that combination unless the transcontinental lines are permitted to make an import rail rate to Akron, Ohio, from Pacific coast terminals, which meets the situation which already exists. It will move by the Atlantic ports, and you are really not helping out the idea of protection.

The CHAIRMAN. I may say, Mr. Wettrick, that that bill is not under consideration now, and if it does come before the committee you will have an opportunity to appear.

Mr. WETTRICK. I would not have mentioned it here except it illustrates somewhat the same principle that we are contending for in this matter. I should like to, by way of summarizing some of the things that I have mentioned here, show the committee that, so far as I have been able to find, all unbiased experts on these rail and transportation matters agree that the principle of permitting the carriers to make, under circumstances which require it, lower rates to the terminals than to intermediate points is correct.

For instance, Judge Walter C. Noyes, in his work on American railroad rates, discusses the principle, and he uses this language:

> The statement that low rates at competitive points impose heavier burdens upon local traffic is fallacious. The railroad could not get the through traffic at all unless it made low rates. Unless carried at an actual loss—impossible from an economic standpoint—it does the local traffic no harm. If it pay any profit—although insufficient to contribute to fixed charges—it reduces the amount necessary to be raised from local shipments. Low rates at competitive points, by producing paying business not otherwise obtainable, in the end benefits the local traffic by enabling the railroad to reduce the rates thereon. Moreover, a reduction of through rates to a competitive point generally benefits the surrounding

territory. The low through rate to the distributing center plus the local rate to the near-by station is often less than the regular rate to that station even though it be nearer the shipping point than the distributing center.

That is what I had in mind when I said the other day that I think the whole State of Washington and any part of the country which is near enough to water ports derives a benefit from permitting the railroads to compete which that territory would not get if you had an absolute long-and-short-haul clause; and that, on the other hand, there would be no compensating benefits to anyone from such a clause.

Now, President Arthur Hadley, of Yale University, as much as 25 or 30 years ago made a study of this question, and here is the conclusion which he came to:

Where one place has the benefit of water competition and another has not, it is hard to devise any effective means of getting rid of the differences.

We are apt to think that because these local discriminations are an evil it must be the fault of somebody. In our anxiety to get rid of the evil we are apt to overlook the natural causes which led to it, and which sometimes must lead to it almost of necessity. That local discriminations are a most serious evil, no one can doubt. That they are exaggerated, and in many instances flagrantly exaggerated, by the shortsighted policy of the railroad managers is equally certain. But there are many instances where the railroads are not responsible for them and where it is worse than useless to try to prohibit them by law. We are not arguing in favor of this system, but against the popular remedy—a statute.

Suppose it is a question whether a road can be built through a country district lying between two large cities which have the benefit of water communication while the intervening district has not. The rate between these points must be made low to meet water competition; so low that if it were applied to the whole business of the road it would make it quite unprofitable. On the other hand, the local business at intermediate points is so small that this alone can not support the road, no matter how low or how high the rates are made. In other words, in order to live at all the road must secure two different things—the high rates for its local traffic and the large traffic of the through points, which can only be attracted by low rates. If they are to have the road they must have discrimination.

I think sometimes what the effects of an absolute long-and-short-clause might have upon the development of a new country and the building of new railroad lines between all the large centers of the country, where you have more or less direct lines built up—a new country must be developed, and to reach the new points you must have circuitous lines of railroad. None of them could support, perhaps, a new line. If you are going to have railroad development, therefore, the new railroads will reach points which already have rail transportation, and unless such roads are permitted to participate in the traffic at the big terminals which really justify their building more than perhaps the new points that will be reached, they can not exist. Unless they are permitted to make these competitive rates, their construction and operation would have to depend alone upon the new territory reached, which absolutely could not support them.

Now, I want to mention this fact, too, that in England, which is, as you know, surrounded by water, the carriers are permitted to meet water competition, and they have not even as rigid a law as we have at the present time. The act in England simply provides that the railway and canal commission, or whatever the name of the body is, may direct that a carrier shall not charge more for a long haul than for a short haul, leaving the carriers free to meet the situation as they please, unless restricted by an order of the commission which has authority over it. I find that Lord Herschell, in the

case of Phipps *v.* London & Northwestern Railway Co., reported in Q. B., page 229, uses this language:

> Suppose that to insist on absolutely equal rates would practically exclude one of the two railways from the traffic. It is obvious that those members of the public who are in the neighborhood where they can have the benefit of this competition would be prejudiced by any such proceedings.

He is talking about competition between two rail lines rather than competition between rail lines and water lines, and he seems to base his decision on the ground that to deny the carrier having the line which is at a disadvantage—denying that carrier the right to make competitive rates—would deprive the people living in the community at the competitive points of an advantage to which they are entitled by virtue of their location.

Then he says:

> And further, inasmuch as competition undoubtedly tends to diminution of charge, and the charge of carriage is one which ultimately falls upon the consumer, it is obvious that the public have an interest in the proceedings under this act of Parliament not being so used as to destroy a traffic which can never be secured but by some such reduction of charge, and the destruction of which would be prejudicial to the public by tending to increase prices.

I think there is no question but what the enactment of an absolute long-and-short-haul clause would mean a raising of rates generally throughout this country.

We are located on the Pacific Coast, as I said, and we will have the benefit of water transportation or water competition, anyway. In the nature of things, the advantage which we have over intermediate cities, which we claim to be but a natural advantage, we will have unless by an artificial law you prohibit the carriers from meeting it.

Now, we are interested, however, as well in maintaining the railroad transportation lines in a prosperous condition, and when it comes right down to it, why should we or any of us be any more concerned about the prosperity of our steamship lines than that of our railroad lines? The railroad lines perform the interior service of the country. We depend more upon them, in fact, than we do upon the water lines, which at best can be only auxiliary or supplementary to the interior rail transportation of this country.

Now, my final plea is this, that it seems to me that this is a matter which is peculiarly one which should be passed upon and administered by a governmental body such as the Interstate Commerce Commission, because in passing upon questions under the present fourth section, the long-and-short-haul clause, the Interstate Commerce Commission does no more than it does when it passes upon the question of reasonableness of rates under the first section, or preference or discrimination between localities and communities under the third section, both being involved in the application of the fourth. If the commission is a body that is entitled to our confidence, as everybody will say that it is, and can be depended upon to handle in a proper manner the questions which arise under the first and third sections, is there any reason on earth why we can not leave the decision of questions arising under the fourth section to that same body, as we have in the past?

I want to say this, too, that while in these hearings generally there are brought before you instances of discrimination in this particular rate and that particular rate, that after all is not the question here involved? There are, undoubtedly, rate situations

which exist that should not exist, and I would not attempt to justify some of the things that have been brought before you, but I do make the point in that connection that if there is anything wrong with any of these situations the machinery exists which can correct it, and the Interstate Commerce Commission has shown in the transcontinental rate cases, and in others which have been before it, that if brought to their attention they will be corrected.

A thing of this kind should not be controlled by a rigid law. The facts which exist in one case are entirely different from those which exist in another case. Why should not the Interstate Commerce Commission continue to exercise its discretion in the matter, and after investigating each particular instance decide what shall be done in connection with that matter? The railroads at the present time can make no rates violating the fourth section except with the consent of the Interstate Commerce Commission. Not only that, but the commission may prescribe the extent to which the carriers may violate the fourth section.

The CHAIRMAN. That thought has been laid before the committee in all the forms of which it is capable; it is entitled to very great consideration. I hope you will not enlarge upon it.

Mr. WETTRICK. I had finished right at that point, Mr. Chairman.

STATEMENT OF MR. EDGAR E. CLARK, COMMISSIONER INTERSTATE COMMERCE COMMISSION.

The CHAIRMAN. Mr. Clark, the committee has under consideration a bill introduced by the Senator from Washington proposing to modify section 4 of the Interstate Commerce act. Are you familiar with the bill?

Commissioner CLARK. Yes; I have read the bill.

The CHAIRMAN. After properly introducing yourself upon the record, I wish you would give the committee your views with regard to the effect, operation, or advisability of legislation of that character.

Commissioner CLARK. I am, and since 1906, have been, a member of the Interstate Commerce Commission. I presume that the history of this provision of the act, and of the earlier efforts of the commission to give it vitality, are familiar to the committee.

In 1910 the fourth section was amended, and in that connection the commission was vested with a certain authority or discretionary power to grant relief from the provisions of that section, and the existing rates which deviated from the rule of the fourth section were by statute protected in those instances in which the carriers within a stated time filed applications in defense of them. The filing of those applications, which numbered several thousand, developed, I think, what nobody had fully comprehended before, that is, the extent to which the long-and-short-haul rule was departed from in the rates throughout the country generally.

Ever since that time we have been hearing these cases as rapidly as we could and disposing of them. In some instances the cases have involved very wide, far-reaching rate adjustments, more particularly, perhaps, the transcontinental situation and the situation in the Southeast. The transcontinental situation was the cause of more complaint

than any other. There was more dissatisfaction with it there than elsewhere, and next to that, probably, that was true in the southeast.

In the transcontinental case we found, as the commission had found before, that there was compelling water competition which created a competitive condition at the coast cities which did not exist at the interior points and which justified some relief from the fourth section. We granted some relief by order that they might maintain the lower rates to the Pacific coast terminals, but to the points at which the steamships left their freight only. That required the elimination from the coast group of competitive low rates to all of the interior points; for example, in the State of California and likewise on the north coast. We held that from the Missouri River to the West they might not maintain any lower rates to the more distant points; from Chicago they might maintain a 7 per cent higher rate; from Pittsburgh a 15 per cent; and from the Atlantic seaboard 25 per cent. That order was attacked by the transcontinental carriers, alleging that it was beyond the powers of the commission and the constitutionality of the fourth section was assailed. It was also attacked by the interior California cities, like Los Angeles and Sacramento. The first case, that is, the case of the carriers, went through the courts to the Supreme Court of the United States, where our order was sustained. The other case in California, the injunction proceeding, went off on some technicality of jurisdiction, first, as I remember it, and later was abandoned.

Shortly after that case was decided by the Supreme Court they began to have trouble in the Canal through landslides, and not long after they were overcome the war came on and the vessels that were engaged in that trade abandoned it for more lucrative traffic or operations, and we then reopened all of these proceedings and found that there was no compelling water competition, and withdrew all relief which we had accorded and required the carriers to line up their transcontinental rates in accord with the long-and-short-haul rule of the fourth section.

That is the situation to-day, although I understand it was stated before the committee the other day that places in Idaho were paying 75 per cent more than the coast cities. They are not paying any more.

In the Southeast there was a very peculiar situation. That territory is bounded on the east by the Atlantic Ocean with its south Atlantic ports, and on the south by the Gulf with its Gulf ports, on the west by the Mississippi River, and on the north by the Ohio River, and is pierced by numerous navigable streams.

There were settlements along the rivers before the railroads were built. When the railroads were built, they sought places where people lived and where there was some traffic, and made their rates to compete with the boat lines, and the practice of deviating from the long-and-short-haul rule on account of actual or possible water competition was carried to an extreme. Incidentally, I might say that in the earlier days it was carried to an extreme on the transcontinental roads, an extreme which we never recognized or justified.

In the Southeast we granted relief at water competitive points, where there was water competition, and required the lining up of the rates except within the limits of the relief which we granted, and in making the rates to the intermediate points they were held down by a distance scale which we prescribed.

Our action in that case was attacked, not in the courts, but it was attacked very vigorously by the city of Atlanta and the business interests of the city of Atlanta, and some other of the cities which had been low-rated points, and which, in the adjustment, had to submit to increased rates. The rates to the low-rated more distant points were increased, and the rates to the higher-rated intermediate points were reduced. In connection with the attack on that proceeding it was stated publicly that the result of the readjustment would increase the revenue of those carriers 25 or 30 per cent. A careful account was kept for several months, and we instituted an investigation to ascertain exactly the result of it, and during the first few months that the new rates were in operation and actual account of the traffic compiled under the old rates and under the new showed that the revenue was increased about 4 per cent. That, as we thought, could not continue. In other words, that percentage would be somewhat decreased in the succeeding months because of the redistribution of traffic which would move directly to the intermediate points where the rates had been reduced, instead of moving too the old low-rated points and back again, where the rates had been increased.

The commission has felt that the provisions of the fourth section indicated the policy, or view, on the part of the Congress that there were conditions and situations in which deviation from that rule would be fully justified.

The administration of it was placed in our hands and we undertook to administer it in what seemed to us a consistent and reasonable way, and without creating too violent changes in commercial relationships of places and conditions. There is and has been an irreconcilable conflict of interest between those points which formerly had the low rate and the smaller and less important points, commercially, that have paid the higher rates. That is a perfectly natural conflict of interest.

We have felt that the country was interested in keeping up, as far as possible, a healthy competition between the rail and water carriers. We have not had jurisdiction over the water carriers except where they are owned and operated by a railroad, and that operation is continued under the provisions of the Panama Canal act, in which event they are required to file their rates and observe them the same as if they were railroad lines. We have endeavored to work it out in that way.

A very important feature of the administration of that section, and, to my mind, perhaps more important to the country at large than the feature of water competition, is the competition between rail lines. There, in some instances, but not so glaringly, perhaps, the deviations from the long-and-short-haul rule originally were carried to an extreme; we have pursued as a guiding policy for ourselves, and naturally accepted as such by the railroads, that we would grant relief to a circuitous line so that it might participate in the traffic at the competitive point which was more distant via its route within certain limits. We have said that unless the circuity of its line was 15 per cent or more of the short line, it should be disregarded, and we would grant no relief, but that if the circuity exceeded 15 per cent and was not so great as to be unreasonable, we would grant relief. But we have conditioned that relief upon the proviso that the circuitous route shall not make a rate to a point on

its line that is as distant from the point of origin as the competitive point is via the short line, any higher than the rate which it meets at the competitive point; and also a proviso that the rate at the intermediate point should not exceed the lowest combination.

You see where there is a direct line between two competitive points, we will say, of 100 miles, and a circuitous line, we will say, of 140 miles, the short line makes the rate. The circuitous line wants to meet that rate, and we say, "Yes; you may meet that rate, but you may not maintain any rate to a point on your line 100 miles out higher than the one you maintain to this competitive point. Nor may you maintain a rate to any of thees intermediate points on that 40 miles of intervening traffic which exceeds the combination on the competitive points." So that if the rates are built up for this 100 miles on a distance basis, competitive with the short line of 100 miles, then they naturally grade up beyond 100 miles to the competitive point, until they meet the competition of the lower rate at the competitive point plus the rate back again, and from that point they have to grade down until they grade into the competitive rate at the more distant point, via, the circuitous route. It has seemed to me that to prevent that would effect no public good. The circuitous route, if it can not be permitted to meet that, must elect whether it can afford to reduce its rates to the intermediate point or make its rates to the competitive point higher, which is tantamount to going out of the business, in which event the competitive point is deprived of the advantages of competion of service.

The circuitous route is deprived of participation in some of that competitive traffic under a rate which may not be a fair measure of reasonableness for all of its rates, but which would yield some profit and contribute something to its net. We have refused in many instances to grant relief via routes that were so circuitous that any one conversant with the subject would feel that either the rate via the direct line was too high or the rate via the absurdly circuitous route would be noncompensatory—yield nothing. In those instances we have refused the relief sought.

Now, one of the oldest and most firmly established systems of rates that there is in this country is what is known as the Central Freight Association percentage—zone system. That territory is very liberally served with railroads which cross and recross every few miles. It is highly competitive industrially, and out of these competitive conditions many years ago they evolved this percentage grouping system of rates. It is controlled primarily by distance, distance figured by what is called the short line. While the short line to one point in this group is one railroad, the short line to another point in the same group is another railroad. Perhaps that other railroad strikes both of these points, and it results that in the competition for this traffic, via, the more circuitous routes—assuming this book is the group. One carrier comes in direct from the east and another carrier further north comes in and down from the north. In doing that, it may haul through a higher percentage group in order to get freight or deliver freight in the lower percentage group.

The CHAIRMAN. It would be helpful if you would describe what the Central Freight Association territory is.

Commissioner CLARK. That is the territory west of a line drawn through Pittsburgh and Buffalo and east of Chicago and St. Louis, between the Ohio River and the lakes. East of that is the eastern trunk-line territory where the rates are not grouped on the exact percentage scheme, but where they are grouped to a considerable extent and controlled mainly by distances. In that territory there is comparatively little of deviation from the long and short haul rule except where the circuitous route meets in the manner I have described the lower rates of the direct line. Of course the roads in that territory all through the East participate and ought to participate in the transcontinental rate which did deviate from the long and short haul rule until the proceeding which I have described after the competition through the canal ceased.

Now, I understand it has been said that the congestion that occurred at the North Atlantic ports in the earlier days of the war and before we entered it was the result of the administration of the fourth section. I can not conceive how that idea was born. The facts are that when that congestion came on us, during the earlier days, the southern carriers sought to relieve it in some way, and perhaps to get more by establishing competitive rates to some of the south Atlantic ports; they were unwilling to make these rates and make them the maximum of their rates to intermediate points, and they sought relief under the fourth section for the purpose of trying to distribute some of that traffic to other ports, and they could get the haul on it under rates which they felt would give them some return, and we granted temporary relief, which we did mainly in the hope that it would relieve the situation and distribute the traffic. It did not have that effect in any marked degree, for the simple reason that the ships would not go there to get it. The ships would not come to those ports to bring the freight. Of course, whether or not this bill shall pass and there shall be an absolute prohibition against any rate for a longer distance lower than the rate for a shorter distance on the same line is largely a question of public policy.

It will have a very marked and profound effect upon the commercial interests of this country. It will disturb and in many instances destroy a relationship of rates which has permitted competition of industries; it will change the channels of buying and selling and banking, etc., and I can not see, Senator, that it is going to produce any public good, because I think that the net result of it is going to be to give more of the traffic to the direct lines, depriving many places of competition of service, and give comparatively few reductions in charges which would be of advantage or of benefit to them.

I know that the commission has been criticized because of the manner in which it has administered this section; the commission is in a position where it can not escape criticism if it tried to do so, because, as I have pointed out, in administering this fourth section we have to decide between two irreconcilable—or, rather, between the claims and interests of places whose contentions are irreconcilable, as you have undoubtedly noticed here in your hearings, as between the coast cities and the intermountain cities, and as was developed in the Southeast, when we required what the traffic manager of the

largest system of railroads down there said was a revolution in rate making in the Southeast.

So that we can not, as I say, if we wanted to, escape criticism, because whatever we do one side or the other will find fault. We have tried to do the best we can. Now, if the provisions of the law are too broad, if the discretion in the commission is too large, it might be circumscribed without the very radical change that is proposed in the law.

I speak in no sense of criticism whatever, but the act now lays down no rule of law except that there shall be no higher rate to the intermediate point, the shorter distant point, than to the more distant point, and then it says that the commission may grant relief from this provision. The law does not state what shall constitute reasons for granting relief; it does not state that any particular thing shall be excluded as a reason. So, as I say, we have done the best we could.

Senator McLEAN. Rates must be reasonable and nondiscriminatory.

Mr. CLARK. Yes; rates must be reasonable and nondiscriminatory, and, as the gentleman who preceded me stated very accurately, the commission has always recognized and has stated in its report that the fourth section can not be administered by itself. You can not determine whether or not relief shall be granted under the fourth section without considering first whether or not the rates are reasonable in and of themselves, and, second, whether or not they are unduly prejudicial or preferential. So that both the first section and the third section of the act are necessarily involved in any determination of a question under the fourth section.

The CHAIRMAN. Mr. Clark, upon that point, as the law now is, the commission is given the authority to declare a public policy, whereas, as contemplated by the bill under consideration, it is the Congress that is to declare the public policy. The fact that you have granted relief in various cases indicates that the commission regards it as good public policy to permit, under certain circumstances, a greater charge for the shorter distance.

Commissioner CLARK. Yes; we have felt that, Senator, and we have realized what, perhaps, does not occur to one who is not in these matters continually and who has not dug down into them deeply, that this rate situation as it existed when the fourth section was amended in 1910 had been the growth of years. It could not be uprooted by a violent reversal of policy without doing inestimable harm, and we have approached it with some degree of caution. I do not mean we have shrunk from it, but we have avoided doing things at one time and in a most radical way that would apparently do more harm than good. We have gradually narrowed our policy; we have not announced any policy; we have gone along doing the best we could under the conditions as we met them and as they have presented themselves; we have gradually narrowed our policy.

At first we recognized potential water competition as a justification for relief. Now, we were influenced somewhat in that by expressions that the Supreme Court had made. They said in one instance the boats are not there, but the river is there. In the later days, before the Federal control of railroads came on, we were narrowing that policy; we were declining to recognize potential water competition as any justification whatever, and we were saying that if you rest on water competition it must be active and actual, and we gradually drew

in the limitations that we placed upon the circuitous routes, eliminating, as we were able to as we went along, routes that were absurdly circuitous.

When the Federal-control act was passed we were dispossessed entirely of jurisdiction to do anything under the fourth section, and since that time we have not attempted to do it, except in a few instances in which that situation has been brought before us on complaint.

The CHAIRMAN. Has the commission ever considered the advisability of a grant of authority that would enable it to fix minimum rates as well as maximum rates in order to reach some part of this trouble?

Commissioner CLARK. Yes, Senator; it has, and it strongly favors being granted that jurisdiction. The commission is in favor of being vested with jurisdiction of the water carriers.

The CHAIRMAN. And that it should be given authority to fix minimum rates for all-water transportation as well as water and land?

Commissioner CLARK. Yes, sir.

The CHAIRMAN. Where they serve the same territory?

Commissioner CLARK. Yes, sir.

The CHAIRMAN. The commission thinks it is wise that we give to it the authority to fix minimum charges for all-water transportation?

Commissioner CLARK. Yes, sir.

The CHAIRMAN. So that it could protect competing points against unreasonably low water competition?

Commissioner CLARK. It would protect against unreasonably low rates and against violent and sudden changes in rates. With the water carrier at liberty to change its rates on a minute's notice, and the rail carrier competing for the traffic bound by its tariffs, the water carrier has a very decided advantage which shippers seize upon to get an advantage for themselves. A man will hold his traffic until he sees a boat that needs something to fill out with, and he says, "Here, I have got 10 carloads of this freight here. Do you want it? What will you take it for?" And the boat line will say, "We will take it for so much."

The CHAIRMAN. Is it in the minds of the members of the commission that in competition of land lines where one is longer than the other, to control the short-line charge so that the circuitous line could avoid a violation of the fourth section, without loss of revenue?

Commissioner CLARK. No; that is not in our minds, Senator. It was in our minds that we be authorized to fix minimum rates, if that became necessary, so that the direct line might not make a rate so absurdly low as to make it really cast a burden on other traffic on its line and deprive the circuitous line of any opportunity to compete for the competitive traffic with any advantage.

The CHAIRMAN. It would then be a consideration of the relative importance to the country of raising the short-line rate so that the longer line between the competing points could compete, and at the same time not charge the intermediate points more than it charges for the terminal points.

Commissioner CLARK. Well, as I say, we had not that in mind, but I have no doubt but that the direct lines would welcome that. They have got an advantage anyhow. They have an advantage in service that the other fellow finds it difficult to compete with.

The CHAIRMAN. I am not suggesting that I favor any plan of that kind. I wondered whether that was in the minds of the commission in recommending that Congress grant to it the authority to fix minimum rates as well as maximum rates.

Senator MCLEAN. If you have authority to fix maximum rates, you could regulate that?

Commissioner CLARK. We have now authority to fix only maximum rates. The instances in which the power to fix the minimum rate would be of advantage are first where a substantial adjustment in a highly competitive territory is at issue, and where there is one line that for some reason or other wants to make a low rate. They sometimes do that because somebody with large tonnage demands it, not because they think it is a good business proposition.

With power to fix the minimum rate for all competition, and the power on the part of that carrier to go below it, puts it in the hands of that carrier to determine what the level of rates shall be, what they shall do. Again, if we are given jurisdiction over the water lines, the power to fix the minimum as well as the maximum rates would allow us to fix the relationship, the extent to which the water-line rates should be lower than the rail rates.

Under ordinary conditions they can and ought to be lower. The shippers generally are willing to pay higher rail rates.

The CHAIRMAN. What I had in mind was, looking at it from the standpoint of the revenues of the railroad companies as a whole, and that is a charge upon the people of this country, how much, in your judgment, would the short-line rates have to be increased in order to maintain that level of charge without a violation of the fourth section?

Commissioner CLARK. That would be a guess, Senator. It would depend altogether upon the volume of traffic, and it would involve much more than the competitive rates themselves, because if you raised the rates to a competitive point via the direct line on a certain class of traffic, you would throw out of joint the relationship of that point and another point served by other railroads.

The CHAIRMAN. I recognize that it would require a very complete change in the rate structure. What I am trying to find out is whether the people of the country would have to pay more for their transportation as a whole if you would exercise the authority to fix minimum rates so that there would be no necessity for a violation of the fourth section?

Commissioner CLARK. I think it would undoubtedly result in an increased charge.

Senator UNDERWOOD. Mr. Clark, may I ask you a question there?

Commissioner CLARK. Yes, Senator.

Senator UNDERWOOD. At one time under the fourth section the competitive rates of the railroads got to a point where, in many instances, they drove water transportation out of competition, did they not—it was destructive competition?

Commissioner CLARK. Yes, sir.

Senator UNDERWOOD. How far does that exist to-day.

Commissioner CLARK. Well, I do not think that there are any rates to-day that under normal conditions of water transportation would drive any boats out. As a matter of fact, the water lines that are

operating in our river or coastwise traffic to-day are operating at a very much higher relative cost than the railroads are.

Senator UNDERWOOD. I know, but these are war conditions. I am referring to conditions before the war.

Commissioner CLARK. Normal conditions?

Senator UNDERWOOD. Yes; normal conditions.

Commissioner CLARK. Well, I might illustrate that by a little incident. You are, of course, familiar with the provisions of the Panama Canal act which prohibit a carrier from having any interest in a water line or vessel with which it may or does compete. Now, the lower pensinsula of Maryland has several navigable rivers; there were a couple of railroads crossing the peninsula and they had some boats with which they connected at various river landings, and operated their boats through the Chesapeake Bay up to Baltimore. A number of years ago the railroads, or rather the ownership of them, was obtained by the Pennsylvania Railroad, and with the railroads it got the boats, and it kept on operating them until after the Panama Canal act was passed, and that case came on for hearing before us, and in connection with that hearing the commercial interests of Baltimore appeared and very vigorously protested against granting the carriers' petition for authority to continue the operation of the boats.

They brought up several witnesses from down on the peninsula there to demonstrate that it was against the interests of the communities to have the railroad own and operate the boats, and under the provisions of the act we were obliged to deny the application. A number of the Baltimore people told us that if it was not for the railroad there would be more boats there; that there was plenty of capital that wanted to go into the business and put on boats, and they would get better service and get it cheaper. We entered our order denying the application of the railroad and requiring it to divorce the operation of those boats from any connection with the railroads within a reasonably short time.

Shortly thereafter—I will not undertake to say how many days or weeks, I do not think it was a month—these same Baltimore people flanked by a large number of witnesses from down on the peninsula of Maryland were up here petitioning us to strike off that order, and telling us that it would ruin the business down there and ruin many of these growers who depended upon the boats for service; that there was not anybody else who would do it and they never did get anybody else to go in there and take these boats over or furnish any competitive service with them. There has not been the inducement that there might have been and perhaps ought to have been, for development of water transportation, and I grant you that the policy of the railroads, speaking in general, in the older days of striking at everything that had a complexion of water competition, reducing the rates to prevent its development or to drive it out, frightened the people and they would not put their money into it. In these days it is impossible for them to do it. I do not think that there is any adjustment of rates now that is so low to the water competitive points that in normal times it would discourage water competition, if the persons who were interested in providing the water competition felt reasonably sure that the railroads would not be permitted to pursue that old practice which, of course, they would

not be permitted to do under the present law and the present policy of administering it.

Senator UNDERWOOD. I think that point, the policy, has been changed very materially, but there are no through packets which have gone back on the Mississippi or Ohio or the big rivers of the country, like there were twenty or thirty years ago, and no through freight; it is local freight, as I understand it, largely, now, except in some particular instances; but we want to get back to develop that competition, and Congress has got to establish a fixed policy that is going to insure the investor in boats and water transportation, giving him an assurance that his investment is not going to be wiped out by undue competition, has it not?

Commissioner CLARK. I think that is very sound public policy, Senator.

Senator UNDERWOOD. On what ground do you think that Congress should pursue that matter to a point of establishing confidence of the public—the investing public?

Commissioner CLARK. Well, I do not think I could answer that very satisfactorily now unless I knew what authority would be vested in the administrative tribunal. I think all of these questions vary so in different sections of the country and on different waterways and with different kinds of traffic that it would be impossible to fix a definite rule of law in a statute. In other words, it would need a general rule of law with administrative authority to apply it in a rational way. If, as I said a few minutes ago, the discretion given the commission is too large at the present time, it might be limited by prohibiting the commission from granting relief on account of water competition unless the competition was active and actual, and the law might provide that the commission shall not permit the rail carrier to unduly reduce its rates to meet water competition that is active. That would involve the necessity of authority to fix the minimum rate, however.

Senator UNDERWOOD. If Congress in this legislation were to give the power to initiate all rates on both minimum and maximum, the entire rate, on rail and water transportation, you think the commission could solve the problem satisfactorily, so as to protect water transportation and investment against undue competition, destructive competition?

Commissioner CLARK. You mean if the commission had had the duty of fixing both the rail and the water rates?

Senator UNDERWOOD. Absolutely.

Commissioner CLARK. Where there is active water competition?

Senator UNDERWOOD. Well, not only there, but at all points.

Commissioner CLARK. I am afraid not, Senator, because that is such a tremendous job. The country is so large, and the rates are so many, and the complexities are so great that I doubt if it could be handled in any one place. The personal contact between the shipper and the representative of the railroad with regard to the rates, the necessities of the situation, the development of the traffic, and so forth, enter largely into the making of rates; and I think it is a perfectly safe statement to say that the one consideration that underlies the structure of rates in this country more generally than all others put together is commercial competition. The rates have been

made to meet the business of the country more than they have with a view to meeting the necessities of the railroads. A few years ago the traffic manager of one of our very large systems in the Middle West testified before us that he had never given a thought to the cost of the service in making a rate; that he had never stopped to consider whether it would be profitable or unprofitable; whether it would pay the cost of handling the business.

Senator UNDERWOOD. And that policy has brought about the present condition, where most of the railroads in America are "busted," has it not?

Commissioner CLARK. It had a great deal to do with it. It is a popular thing in some circles now to say that the Interstate Commerce Commission has done it, but when they are asked to point to an instance in which the Interstate Commerce Commission has reduced rates that carry large volumes of traffic and produce any appreciable amount of revenue, none of them can point to an instance.

The CHAIRMAN. Are there further inquiries of Mr. Clark?

Commissioner CLARK. Mr. Chairman, I want to add this other suggestion to the one I made with regard to possible limitation of the powers of the commission. I think that it still ought to have—if it is to have any discretion in this matter whatever; if we are not to have an absolute rule against such rates—that the commission ought still to have some power to permit a circuitous rail route to meet the rates of a shorter route, under reasonable conditions.

Senator POINDEXTER. You say that the short line to a rail competitive point has an advantage over the long line?

Commissioner CLARK. Yes.

Senator POINDEXTER. Is it not true that, under the policy adopted by the commission, it is deprived altogether of that advantage?

Commissioner CLARK. No, I do not think so, Senator.

Senator POINDEXTER. If the short line makes a low rate in order to get the business, at a reasonable profit above the cost of operation, and you, by the system you have adopted, allow the long line to come in and make that same low rate, that prevents the short line from increasing its rate, does it not?

Commissioner CLARK. It probably would, unless the other line would increase also, because it is almost an axiomatic truth that freight ordinarily will move along the line of least resistence in the way of freight rates.

Senator POINDEXTER. And when you allow the long line to make the same low rate that the short line makes, which is a rate, according to your theory, that does not pay any dividends to the long line, then you allow the long line to get its dividends by going back to the intermediate points and raising its rates sufficiently to earn dividends—and it is in just as good situation as the short line, is it not—at the expense of the people at the intermediate points?

Commissioner CLARK. No, I do not think that follows because, in the first place, it does not necessarily follow that the long line pays any dividends. Ordinarily they do not pay very liberal dividends, if any at all. They do, by virtue of this permission, get in there and get a part of this competitive traffic.

Senator POINDEXTER. Do you think they ought to get a part of it?

Commissioner CLARK. What is that, Senator?

Senator POINDEXTER. Do you think they ought to be allowed to compete at a rate which is so low that unless they made it up by a higher rate at some other point, they could not continue to operate? In other words, a rate which pays no interest on the investment?

Commissioner CLARK. I think there are a great many rates in this country that are so low—and necessarily so low, in order to move the traffic—that if they were taken as the measure of the profit for all of the rates, they would be destructive; but where a rate pays more than the cost of operation and contributes a little profit, it helps on the net.

Senator POINDEXTER. Now, take a water competitive rate. You say that the purpose of the relief from the fourth section, as granted by the Interstate Commerce Commission, is to enable the roads to compete with water lines and get a part of that business?

Commissioner CLARK. Yes.

Senator POINDEXTER. Do you think that the roads ought to be allowed to make rates—viewing the roads as public utilities, under the control of the Government, and the rates subject to governmental regulation—that, in order to get a part of that business, they ought to be allowed to make rates so low as to be unprofitable to the roads?

Commissioner CLARK. No, sir; I do not.

Senator POINDEXTER. Well, that is exactly what you have done, is it not?

Commissioner CLARK. No, sir; we do not think so.

Senator POINDEXTER. Is it not true that in case after case the commission has allowed them to make rates based on what they called the "out-of-pocket cost" and a little over?

Commissioner CLARK. Yes; that is substantially so.

Senator POINDEXTER. The roads could not continue to exist and carry their investments and pay interest on their indebtedness on any such rates as that, could they?

Commissioner CLARK. No, sir.

Senator POINDEXTER. Then, it is an unprofitable rate, unless you allow them to come back at the intermediate points and make their dividends off of people who get less service from them?

Commissioner CLARK. That depends altogether upon the interpretation you place upon the word "unprofitable." There is a difference between a very small profit, perhaps, and a little profit. I would call it unprofitable when it paid less than the cost; but if it pays something more than the cost, the carrier certainly is no worse off than it would be if it did not have the business at all.

Senator POINDEXTER. This system of rates is not a natural system; it is a system, as you have just described, which is very complex.

Commissioner CLARK. Very.

Senator POINDEXTER. And that complexity comes from artificial rules made by the traffic managers of railroads and by the governmental regulating authorities. Now, it being an artificial system of rates, made by or under the permission of the Government, ought it not to be so fixed that the railroads would be required to compete with the water lines for the business at the ports upon such a basis, adopted by the Government as a fundamental principle of rate-making, that the rates would be such as to allow a reasonable return to the railroads on the capital invested?

Commissioner CLARK. Of course, that is a sound principle of law—that the rates shall yield such a return, Senator——

Senator POINDEXTER (interposing). But you have fixed them, have you not?

Commissioner CLARK. Let me finish.

Senator POINDEXTER. Let me add this to the question, and you can include it in your answer. You have fixed them, so far as the vast volume of business to the seaboard is concerned, on such a basis, namely, a little over the out-of-pocket cost; that is, a little over the actual cost of operation, and they can not pay any returns on the capital invested and can not pay any interest on their debts?

Commissioner CLARK. They can not, Senator, if that be taken as a measure of the profitableness of each rate. It is very difficult, if not impossible, to determine the exact profit on any particular single rate on any single commodity. There are numberless questions involved, that I will not take the trouble to detail; but, for example, upon what basis are you going to determine exactly the separation of the costs of construction, maintenance, and operation, as between passenger business and freight business? Certainly those costs are perfectly easy to allocate; but others of them nobody has yet discovered a way that is free from criticism that almost destroys its usefulness. In some of the items—and they are important items—for example, maintenance of way: what is its effect on the traffic of these different kinds? But those are questions that I do not care to go into, as I do not wish to confuse the issue.

I simply want to point out that the rate structure of this country was built up under a governmental policy where railroads were private property and the railroads were run as private property, and the older traffic men and railroad managers resented the idea of anybody interfering with their business, just as they would have resented it if they had been running a grocery store; but that policy has been gradually changing; while the Government has been gradually drawing its lines of supervision and regulation more closely, these conditions have been changing; but they originated in that policy, and every railroad that was built under that policy strained every nerve to get industries located on its rails, where it would get the traffic to and from those industries; and in order to get an industry located on the rails of a certain railroad, that railroad had to make rates under which that industry could compete in a consuming market with an industry on an entirely different railroad—perhaps in the opposite direction. And that is why I say that the influence that underlies it all, and that is stronger than all the other influences put together, is that commercial competition, that making of rates to permit the industries to continue in business and to compete in the consuming markets.

Now, we would not adopt that policy if we were now building railroads to serve industries already located, or to serve a territory which had not been developed at all, and in which industries would later locate; but those conditions are there, and I do not hestitate to say that the commission has looked with apprenhesion upon the inevitable effect of some things which would appear, on their face, the right and logical thing to do, but which, when analyzed, developed merely the fact that it would create a great deal more harm

than it would do good, but the commercial and industrial interests of the country are in such keen and active competition with each other that we have hesitated to require a rate adjustment which, on paper, looked perfectly logical and nice, and was theoretically all right, but which inevitably would destroy a man's industry and his investment.

Senator STANLEY. Do you think a wholesale readjustment of rates would result in industrial revolution?

Commissioner CLARK. Commercial revolution, yes; that is, a violent change.

Senator STANLEY. Yes; I meant by that the demolition of certain going concerns?

Commissioner CLARK. Yes; undoubtedly.

Senator STANLEY. Do you think that this effort of the railroads, by concessions in freight rates, to induce industries to locate on their lines, has resulted in the location of many industries in places where normal and natural conditions would not have justified their location, and where their cost of operation and cost of producing a given commodity is much greater than that of a competing concern located under normal and natural conditions?

Commissioner CLARK. That is absolutely so, and I can point you, if you care to see them, to a number of our reports in cases where we have said cold-bloodedly to a man, "This is the disadvantage of your location, and we have no power or right to undertake to equalize your natural disadvantages, or to take away from this other man his natural advantages." But there is a point somewhere, within reasonable distance and with a reasonable amount of service, at which they can compete without doing rank injustice to either.

Senator STANLEY. That is the main question that is running in my mind. I am sorry I was called out and did not have a chance to hear all your testimony. A bigger question than the long and short haul, to my mind, or any other question that has been raised during these hearings, is this proposition. We are forced more or less into the commerce of the world now—world commerce—and in order to enter the markets of the world, we must enter them with those commodities that are produced at the least cost consistent with out natural advantages and natural resources. In other words, if we have pig iron and coal and limestone advantageously located with reference to the blast furnace, that pig iron may enter the markets of the world, where pig iron from a blast furnace hot-housed by rate preferences could not possibly enter; is not that true?

Commissioner CLARK. Yes.

Senator STANLEY. Now; I want to ask you this question and then I am through: In the long run, would a rate adjustment based entirely upon the approximate cost of the service result in good to the general public, or would the cost be too great to justify any incidental injury to individual operators?

Commissioner CLARK. I do not think that you can take the cost of service or the distance or any other arbitrary factor as an absolute rule for rate making without doing untold injury, which would in no sense be compensated for by the benefits; and it would take a generation to adjust to it.

Senator STANLEY. It would be too costly in operation?

Commissioner CLARK. I think so.

Senator MCLEAN. Would it not cause a redistribution of the centers of population?

Commissioner CLARK. It would destroy industries and thriving communities, and build new ones to take their places. That is why I say it would take a generation to readjust under it.

Senator STANLEY. I have an open mind on the subject; I have no convictions.

Commissioner CLARK. I hope I have. I try to keep it so.

Senator POINDEXTER. You just stated that you had withdrawn permission to the roads to violate the fourth section on the Pacific-coast traffic?

Commissioner CLARK. Yes.

Senator POINDEXTER. When was that done?

Commissioner CLARK. I do not remember the date, Senator. It was done after the boats abandoned the canal service—after the war broke out.

Senator POINDEXTER. It was some little time ago?

Commissioner CLARK. Oh, yes.

Senator POINDEXTER. Now, has that ruined the country, as you predict it would?

Commissioner CLARK. Oh, no; it has not ruined that country at all.

Senator POINDEXTER. It has not hurt it, has it?

Commissioner CLARK. I do not think so.

Senator POINDEXTER. I understood you to say a moment ago that it would lead to a change of trade conditions, disruption of business and banking, and bring about general disorder and chaos.

Commissioner CLARK. Senator, it is not fair to take the transcontinental situation as illustrative of the whole country. On the transcontinental roads it is a long, straightaway haul; it is, in very large measure, through country that produces but little traffic, and it is entirely different from the situation in this central freight-association territory or in the Southeast or over in New England—entirely different.

Senator POINDEXTER. What do you call this territory between the Buffalo-Pittsburgh line and the Atlantic coast?

Commissioner CLARK. Trunk-line territory.

Senator POINDEXTER. In that trunk-line territory, I believe you stated, there were very few violations of the fourth section?

Commissioner CLARK. Except in the group that I have pointed out, in hauling through higher-rated group territory, by a circuitous route, to get into a lower-rated group.

Senator POINDEXTER. In other words, you showed that the long-and-short-haul clause is enforced in that territory more than in any other part of the country?

Commissioner CLARK. Yes; that is true; it is more generally observed.

Senator POINDEXTER. It has not ruined that territory, has it?

Commissioner CLARK. The situation there has not been changed.

Senator POINDEXTER. That country has prospered under the fourth section as strictly applied?

Commissioner CLARK. Do not misunderstand me, Senator. I did not say that a strict application of the fourth section would ruin the country. What I said was that to take the cost of service, or distance, or any such arbitrary factor, as the sole and controlling measure of rates, would revolutionize commerce. I did not say the terms of the fourth section would do it.

Senator POINDEXTER. I misunderstood you. I beg your pardon. What we are interested in here is the fourth section.

Commissioner CLARK. I was answering Senator Stanley's question.

Senator POINDEXTER. Well, I misunderstood you. Now, you spoke about market competition—giving to various market competitors rates that will enable them to compete. Sometimes that is based on existing business and on the volume of business, and all that sort of thing, and you seek to make an equitable adjustment. Suppose there are two or three towns situated in a given section of the country, and you give one of those towns a rate that is 25 per cent lower than the other three towns in that section have; could those towns that had the higher rate compete with this town that had the lower rate?

Commissioner CLARK. We do not do that.

Senator POINDEXTER. Have you not done that in the case of Jackson, Tenn., for instance, as compared with other points in that section of the country—Memphis and Vicksburg?

Commissioner CLARK. No.

Senator POINDEXTER. You have not?

Commissioner CLARK. No. Jackson, Tenn., has had a just cause for grievance in years gone by. Jackson, Tenn., is at no disadvantage now in its rate adjustment. I am speaking generally; I do not undertake to say there may not be some little things that they could point out; but Jackson, Tenn., is at a disadvantage in the general adjustment down there only with relation to the points on the rivers, where there is water competition.

Senator POINDEXTER. Salt Lake City, for instance, is situated in the wool-producing country.

Commissioner CLARK. Yes.

Senator POINDEXTER. And interested in shipping wool to the Boston wool market.

Commissioner CLARK. Yes, sir.

Senator POINDEXTER. It costs more to ship wool from Salt Lake City or points in that vicinity—I am not sure that I have the exact stations—but in Uah; it costs more to ship from those points to Boston than it does to ship the wool from Los Angeles to Boston, and it costs very little more to ship it from Salt Lake to Los Angeles and then back from Los Angeles through Salt Lake City to Boston than it costs to ship it from Utah points directly east to Boston. Now, under those circumstances, do you think Utah can compete with Los Angeles?

Commissioner CLARK. Senator, you say that is so. You will pardon me if I disagree with you. That used to be so. I do not think it is quite true to say that the rates on wool from Utah were ever equal to the combination on Los Angeles. It is true that the rates on wool from the interior or intermountain section producing wool were higher than the rates from the Pacific Coast terminals, like Los An-

geles, San Francisco, Portland, and Seattle. It is true that that was the situation; and, as I have undertaken to say, perhaps with regard to wool, but not trying to confine it to any commodity—speaking in a general way—the old policy of the transcontinental railroads in that respect was carried to an extreme in my judgment, and we required a very substantial abatement of it in the first decision we ever made with regard to that situation.

Senator POINDEXTER. I am informed—but, of course, perhaps you have looked the matter up—that those wool rates from Utah and Idaho are still in effect, those discriminatory rates, but that they have been withdrawn in some other sections—Montana, for instance. However that may be, the principle is the same. I understand you to say that this system of giving a low rate to one point and a high rate to another point did not produce congestion?

Commissioner CLARK. No; what I said was that I understood it had been said that the congestion which preceded and existed during the early days of the war at the North Atlantic ports was the result of our administration of the fourth section, and I denied that statement.

Senator POINDEXTER. Your administration of the fourth section had built up some points and prevented other points from building up, had it not?

Commissioner CLARK. No; I do not think so.

Senator POINDEXTER. You do not think that a 75 per cent higher rate to Spokane than to Seattle tends to draw manufacturers to Seattle and to prevent them from locating at Spokane?

Commissioner CLARK. The difference between your view of that and mine, Senator, is this: You say our administration of the fourth section built that up. I say it was there years before we had any fourth section at all, and years before we had this amended fourth section,

Senator POINDEXTER. Seattle was not there at that time, and neither was Spokane. They have grown up since you have been administering the Interstate Commerce act.

Commissioner CLARK. Senator, as I tried to intimate in my opening statement, if you will go back and read the history of the fourth section prior to 1910, you will find that the commission tried in various ways to give it some vitality, and that every decision the commission made under the fourth section which was taken into the courts, was reversed, and that the commission has had no real administration of the fourth section, except under the amended fourth section of 1910; so that I say we are not responsible for anything that occurred prior to 1910; and I say, further, that there is no situation in which the fourth section long and short haul rule is involved that has been brought before our commission that has not resulted in relief to the intermediate points, as compared with what they had before.

Senator POINDEXTER. No one is disposed, as far as I know, speaking for myself—and I assume no one is disposed—to make any issue of blaming the Interstate Commerce Commission. It is relief that we are seeking, in the establishment of a certain policy, and if the Interstate Commerce Commission was laboring under the difficulties of the law itself, we are perfectly ready to admit that. I know there is no disposition to complain of the Interstate Commerce Commission.

Commissioner CLARK. Oh, I understand that.

Senator POINDEXTER. It is too important a question to be diverted into any such thing as that.

Commissioner CLARK. Yes; surely.

Senator POINDEXTER. I understood you to say that unless the roads were allowed to put down their rates at water-competitive points to such a point that they would be compelled to raise their rates at the intermediate points in order to get sufficient revenue, they could not compete with the water routes, and the water lines would take all the business away from them?

Commissioner CLARK. No; I do not think they would take all the business away, but they would take substantially all of certain kinds of traffic.

Senator POINDEXTER. On the eastbound traffic from the Pacific coast to the Atlantic coast there were comparatively few, if any, violations of the fourth section, were there not?

Commissioner CLARK. Yes; comparatively few, because the Pacific coast, in the main, was in two groups that took a common rate, and everything east of Denver was in another group.

Senator POINDEXTER. And there was water competition from the Pacific coast to the Atlantic coast?

Commissioner CLARK. Yes.

Senator POINDEXTER. There were transocean lines from the Pacific to the Atlantic, operating under a strict observance of the fourth section, and yet the railroads carried the business?

Commissioner CLARK. I do not know what you mean by "operating under a strict observance of the fourth section."

Senator POINDEXTER. Well, there was no violation of the fourth section, you just stated, on the east-bound traffic.

Commissioner CLARK. But the railroads did not carry all the business, by any manner of means.

Senator POINDEXTER. They carried pretty nearly all they could carry, did they not?

Commissioner CLARK. At times they did, and at times the boat lines had more than they could carry, and sometimes there was more than both of them could carry.

Senator POINDEXTER. That the railroads were getting along all right under strict application of the fourth section is a fact that is rather in conflict with your theory, is it not?

Commissioner CLARK. There was no strict application of the fourth section on eastbound traffic. Your wool is an instance of it, and hops is another instance of it.

The CHAIRMAN. It is now nearing 12 o'clock and I assume the members of the committee will desire to be in the Senate Chamber for a while, at least. If it be agreeable to the other members of the committee we will continue the hearing at the rooms of the committee in the Capitol Building—the old room of the Indian Affairs Committee—at half past 3 o'clock. Can you return at half past 3 to-day, at that place, Mr. Clark?

Commissioner CLARK. Yes; I will be at your service.

(Whereupon, at 11.55 o'clock a. m., the committee adjourned until 3.30 o'clock p. m., to meet in the committee room in the Capitol Building.)

AFTER RECESS.

The committee reconvened at 3.30 o'clock p. m.

Hon. ALBERT B. CUMMINS (chairman) presiding.

The CHAIRMAN. Mr. Commissioner (addressing Commissioner Clark), you were being examined when we separated this morning. As you know, it is rather difficult to get the committee together nowadays. Is there anything further that you desire to say? If not, I am not going to hold you here longer.

Commissioner CLARK. No, Senator, I do not think there is anything further that I want to add, except to suggest that if this bill should pass, the idea of reforming the rates to conform to the requirements of this act within any such period as 60 days is a physical impossibility. It would take several months, at the very least, to bring that about.

Then, on my own responsibility and authority, I want to suggest that if you do pass this bill and fix a time limit within which it shall be complied with, you do not confer upon us any authority to extend that time.

The CHAIRMAN. We will bear those things in mind, Mr. Commissioner; and, while others may wish to ask you some questions, we can not ask you to remain here until they come.

Senator POMERENE. I want to say, for the benefit of the record, that I was very anxious to hear Commissioner Clark's testimony, but I had a very important meeting in the Committee on Privileges and Elections this morning, which detained me. However, I shall be very glad to read his testimony.

The CHAIRMAN. We will excuse you, then, Mr. Commissioner. The gentleman from Boise City may take the stand.

STATEMENT OF MR. G. B. GRAFF, SECRETARY BOISE COMMERCIAL CLUB, TRAFFIC DEPARTMENT, OF BOISE CITY, IDAHO.

Mr. GRAFF. Mr. Chairman and gentlemen, I am secretary of the Boise Commercial Club, Traffic Department, of Boise City, Idaho. I am also representing the Public Utility Commission of the State of Idaho.

In opening, I desire, for the benefit of the record, to read House Joint Memorial No. 18, passed by the Idaho State Legislature in March, 1919, memoralizing the Congress of the United States to pass Senate Bill No. 313. At that time the bill under consideration was No. 313, instead of 360.

(Thereupon, Mr. Graff read aloud the following:)

Your Memorialists, the House of Representatives and Senate of the State of Idaho, respectfully represent, that

Whereas the people of the State of Idaho, have for many years in the past suffered under a most unjust and oppressive discrimination in transcontinental railroad freight rates, because the transcontinental railroads have been permitted to charge or assess higher rates upon freight traffic originating in the eastern portion of the United States, destined for Idaho, than were charged or assessed upon freight traffic originating in the same territory and destined for the more distant cities on the Pacific coast, such as Portland, Oreg., and have also been permitted to charge higher freight rates upon freight traffic originating in the State of Idaho, and consigned to the markets in the Eastern cities of the United States than was charged on similar shipments from the more distant cities and localities on the Pacific coast; and

Whereas said discriminatory and preferential system of freight charging has been defended upon the theory that the same was forced and compelled because of the presence of water competition at Portland and other Pacific coast terminal points and such defense has been found to be without merit; and

Whereas said system of charging higher freight rates for a short haul than is charged for a longer haul can not be predicated upon any principle of just or fair dealing to the people of Idaho, and this intermountain country; and

Whereas the effect of said higher charging for the short haul to and from said less-distant points has resulted in retarding the growth and development of Idaho's industrial and commercial prosperity, and in restricting the State's growth, population, and wealth; and

Whereas the methods now provided by law for obtaining relief from such an unjust situation before the Interstate Commerce Commission are uncertain, exceedingly slow, expensive, and unsatisfactory; and

Whereas there is now pending in the United States Senate a bill designated Senate bill No. 313, introduced by Senator Poindexter of the State of Washington, designed to prevent said discriminatory and preferential system of freight rate charging with reference to long and short hauls, and designed to give some measure of relief to the intermountain country. Now, therefore, be it

Resolved, That we, the House of Representatives of the State of Idaho, the Senate concurring, do earnestly request and recommend that the above-mentioned bill be taken up and voted on at the earliest possible date to the end that said bill may as soon as possible become a law; and, be it further

Resolved, That the Senators and Representatives in Congress from the State of Idaho are requested to support said bill and work earnestly for its passage.

Mr. GRAFF. It was said this morning that we had no discrimination in the West now. That, of course, is not true, because we have discrimination—a great deal of it. We are assessed higher charges to-day in the State of Idaho than the more distant points in the States of Oregon and Washington.

As an example, on our class rates from Boise City, Idaho, and from other Idaho points, to New York City, the first class is $4.64, and they charge Portland, Oreg., or Washington cities $4.375, or 26½ cents less than they charge Boise. On second class we pay an excess of 23½ cents; on third class, 13½ cents; on fourth class, 9 cents; and on fifth class, which covers a great many carload shipments, it is 17½ cents.

The CHAIRMAN. How far is it from Portland to Boise City?

Mr. GRAFF. Five hundred miles. Now, to Dallas, Tex., we pay a first-class rate of $4.19. Portland pays $3.75. On second class we pay $3.59 and Portland pays $3.25.

Senator POMERENE. That is, you mean, from Portland to Dallas?

Mr. GRAFF. Yes; from Portland to Dallas and from Boise to Dallas. We pay an excess on first class of 44 cents; on second class, 34 cents; on third class, 30 cents; on fourth class, 42½ cents; and on fifth class, 14 cents.

On traffic from San Francisco to Portland, Oreg., destined to Idaho, we pay a proportional rate of 63 cents. If that shipment had stopped a hundred miles west of us they would pay 51½ between the two points. We pay an excess on second class of 6½ cents; on third class, 15 cents; on fourth class, 22 cents; and on fifth class, 15 cents, and on the balance of the classes, 15 cents in excess of the rates on shipments destined to Oregon and Washington from San Francisco, and great volumes of tonnage move over that route. In fact, nearly all our traffic from San Francisco moves through Portland. Now, on a carload of dried beans to Boise City from San Francisco

we pay 6 cents a hundred more to Portland than would the receiver of freight in Oregon or Washington.

Senator POMERENE. I do not get the route of that freight.

Mr. GRAFF. It moves from San Francisco through Portland and then over the O.-W. R. & N. Co.

Senator POMERENE. That is to Boise?

Mr. GRAFF. Yes.

Senator POMERENE. What is that rate?

Mr. GRAFF. Twenty-five cents if it is destined to Boise, and 19 cents, if it is destined to points in Oregon or Washington, and on the O. W. R. & N. in that State.

On canned goods from Marysville, we pay an excess of 17 cents a hundred on a thirty thousand pound car to Boise, over what is charged the Washington or Oregon people.

On cereal products from Marysville we pay 18½ cents more, and on dried fruit—and we ship a great deal of raisins, dried prunes, apricots, and apples from all those points—and we are paying an excess of 6 cents a hundred, or $24 a car for the short haul.

Those are a few examples, and there are a great many more. I will also call your attention to some eastbound rates from Idaho. These are commodities produced in the State of Idaho which we ship out in great quantities.

Senator POINDEXTER. Are these rates in effect now?

Mr. GRAFF. They are, yes; or they were when I left Boise two weeks ago. On apples, we send out several hundred cars every year, shipped to New York and Chicago and throughout the eastern States, but we do not ship any down into the southeast—and this is probably the reason for it: To Alabama City it costs us $1.49 a hundred. It costs the Pacific Coast $1.25. We have to pay $72 a car more on apples to Alabama City than the apple districts of Washington or Oregon would pay.

Senator POINDEXTER. Do I understand that is on routing from Portland that passes through the Idaho points?

Mr. GRAFF. Yes, sir.

Senator POINDEXTER. Seventy-two dollars a car more for those points in Idaho?

Mr. GRAFF. Yes, sir.

Senator POINDEXTER. Than from Portland, although the Portland shipment passes through Idaho points?

Mr. GRAFF. Yes; and it is some 500 to 800 miles further.

Commissioner CLARK. Through Boise?

Mr. GRAFF. Not through Boise, but through Nampa, for instance. To Chattanooga, Tenn., we pay an excess of $34.50 a car. Now, on deciduous fruits—peaches, prunes, pears, cherries, and such as that, it costs us an excess of $108 a car to make a shipment of that deciduous fruit to Chattanooga, over the cost to the Pacific coast points; and to Alabama City it is an excess of $188.40.

To Alabama City on a carload of canned goods—and we have canning factories in Idaho and we ship a good many carloads, although we do not get very far, because the rates are against us. We send them, however, west right into Spokane and Portland, where they have canning factories; but if we were attempting to ship a car to Alabama City, it would cost us $417 more than it would

from the Pacific coast—and that is more freight than an eastern man pays on two carloads. That is our discrimination.

Senator POINDEXTER. You say "our discrimination." What do you mean by "our"?

Mr. GRAFF. Idaho's—Payette, Emmett, and all points where there are canning factories. They are all intermediate on that line.

Senator POINDEXTER. On what line is that?

Mr. GRAFF. The Oregon Short Line. To Chattanooga we would have to pay $333 a car more than the Pacific coast would on canned goods.

On dried fruit—and we have driers right around Boise, and we ship dried fruit to eastern points, but if we attempted to ship a carload down to Chattanooga we would have to pay $225 in excess of Portland, and on down the line.

Senator POMERENE. What is the reason assigned for those differentials?

Mr. GRAFF. I do not know that there is any, Senator, except that they are rates that have been accorded the Pacific coast, and we have never done any business down in that territory, and they have never seen fit to give us a rate, and that is the reason we have not.

Senator STANLEY. What percentage is the rate paid by more favored points that have the same length of haul?

Mr. GRAFF. What is that, Senator?

Senator STANLEY. What per cent is your rate of the rate from the points that have a more favored tariff? You say there is a differential of $200.

Mr. GRAFF. Yes.

Senator STANLEY. Now, what does it cost this other shipper to ship a carload to Alabama or to Atlanta, let us say?

Mr. GRAFF. On this shipment it would cost him $420, and it would cost us $765; nearly 50 per cent, as you will see.

The CHAIRMAN. I have not your railroad situation clearly in my mind. The Northern Pacific and Great Northern cross the northern part of Idaho?

Mr. GRAFF. Yes; but this applies to southern Idaho; not northern Idaho.

The CHAIRMAN. There is no discrimination up there such as you speak of now?

Mr. GRAFF. Well, there is on wool, I believe, but I do not think there is on these commodities.

The CHAIRMAN. The Oregon Short Line crosses the southern part of Idaho?

Mr. GRAFF. Yes.

The CHAIRMAN. Running in a southeasterly direction?

Mr. GRAFF. Yes; running east and west.

The CHAIRMAN. And it joins the Union Pacific at Granger?

Mr. Graff. Yes, at Granger; and the O-W R. & N. at Huntington, Oreg.

Commissioner CLARK. May I ask the witness one or two questions about these rates?

The CHAIRMAN. I think you may in view of the fact that you are, in a sense, responsible for them.

Commissioner CLARK. Are you comparing class rates from Idaho with commodity rates?

Mr. GRAFF. No; they are the combination rates.

Commissioner CLARK. Have you attempted to ship into the southeast and sought rates that would move the traffic?

Mr. GRAFF. I am going to show that right here.

Commissioner CLARK. Have you asked the commission for such rates?

Mr. GRAFF. I have asked the railroads numerous times. It is quite expensive to take a proceeding before the commission, and we have never been organized out in Idaho. That is the reason for it, I suppose. I have a freight bill here, a receipt for money paid a railroad at Fort Worth, Tex., on April 23, 1919. This shipment moved over the Fort Worth & Denver City to Fort Worth. It consisted of 462 sacks of dried beans, shipped from Wendell, Idaho. There were 60,060 pounds in the car. They charged a rate of $1.34, or a total freight charge of $804.80; and they maintain a rate from points west of us, from the Pacific coast and other points, of 94 cents, or 40 cents a hundred pounds less, thereby assessing us $240 more than they would if this shipment had originated 150 miles west of us, further away from the point of destination. That is an actual case of recent date.

The CHAIRMAN. Is that passing over the same line?

Mr. GRAFF. Passing over the same line; yes sir.

Senator POMERENE. You are speaking of rates from the Pacific coast?

Mr. GRAFF. Yes, sir.

Senator POMERENE. What difference is there, if any, in the rates at intervening points between your point and the coast and the southeast—say, Fort Worth, as you spoke of?

Mr. GRAFF. There was a difference of 40 cents a hundred on that carload of beans.

Senator POMERENE. Not from the coast, but is there a different rate from the intervening points? Suppose the coast is here (illustrating), and you are over here some place. Now, between those two points, say, is there any difference in the rate between this point in Idaho, and this other point over here, to the south?

Mr. GRAFF. Yes; that is just what I am saying. That 94-cent rate applies 400 miles inland from the Pacific coast, but we happen to be 500 miles inland, so we do not get it. There is an instance where a man lost money, and he wanted me to take it up with the commission and try to get it back. I think I can. I hope I can. He lost money on that shipment.

Senator STANLEY. Did the freight cost more than the beans?

Mr. GRAFF. No, the freight was not more than the beans. We had another instance some years ago. A junkman in Boise made a shipment of about 100,000 pounds of junk to Chicago. It was not quite 100,000 pounds, but he paid something over $1,600 freight on that carload of scrap copper, rubber, and brass. There was a rate maintained from Baker City, Oreg., right through Nampa, of 60 cents, and he paid $1.65 to Chicago. Of course, he lost money, and he turned it over to a lawyer to get it back, but the lawyer failed to get it. I do not know whether he took it up with the commission or with whom, but he turned the papers back to the junkman and said he could not do anything for him. The papers were given to our bureau and the matter was taken up. It was submitted on an

informal docket to the commission, and we got the money back, but it took us over two years to get that money back, and that just about put that junkman out of business. He did not have $1,000 to lend the railroad company for two years. We asked for interest on it, but they refused the interest, notwithstanding the commission has permitted interest to be added in a good many cases.

Now, those are cases that are coming up continually under this law, and that is why we object to it as it is. You can not straighten them all out, because there are so many of them. They will have to be wiped out at one time, in order to induce capital to come there and to insure it that it can stay there profitably.

Senator McLEAN. It would not take the commission very long to readjust these Idaho rates, if you would bring it to their attention, if they were so disposed, would it?

Mr. GRAFF. There are so many of them that it would take considerable money to get them all together to fight it. It would take two years to get those rates straightened out.

Senator McLEAN. To get a decision from the Interstate Commerce Commission?

Mr. GRAFF. Yes, it ordinarily takes about two years to get anything through the Interstate Commerce Commission. That has been my experience, at least.

Now, we have a case here—potatoes. We are quite a potato State in Idaho, and we ship out between 8,000 and 10,000 cars a year. Our big market is down in Texas and Oklahoma, and about 60 per cent of them go down there. We have always had a lower rate on potatoes than the Pacific coast, and that is why we have been able to ship them; but the Railroad Administration now is attempting, or they have on their docket—the Dallas docket and the Denver docket—they propose to increase the rate from Caldwell, Idaho, to Texas common points to 97½ cents a hundred pounds.

The CHAIRMAN. They are proposing to increase your rate?

Mr. GRAFF. Yes; and they are taking testimony on it now. The rate from the Pacific coast is 94 cents, and there is no proposal to increase that rate. That will make a fourth section violation there. They are going to increase our rates higher than the Pacific coast rates, on a traffic that moves in great volume, like potatoes.

Senator McLEAN. Would you ordinarily send traffic to the Pacific coast to get to the eastern seaboard or even to Chicago and Philadelphia? You would ship direct by rail, would you not?

Mr. GRAFF. Yes, I would ship direct by rail.

Senator McLEAN. What are the rates to those points?

Mr. GRAFF. We do not ship any potatoes into Philadelphia; it is too far. We come up against Wisconsin and Michigan competition there.

Senator McLEAN. Where is your principal market?

Mr. GRAFF. In Texas and Oklahoma, and we ship a good many to Chicago. We have a lower rate to Chicago than the Pacific coast has.

Senator McLEAN. You have a satisfactory rate to Chicago?

Mr. GRAFF. Yes; we have a satisfactory rate to Chicago.

Senator POINDEXTER. I understood you to say that they are considering raising your rate?

Mr. GRAFF. Yes; to a point above the present Pacific coast rate.

Senator POMERENE. On whose initiative is that?

Mr. GRAFF. It came from the Dallas freight traffic committee and the Denver freight traffic committee. Now, who is responsible for it, I do not know. It was on their own initiative that they proposed to increase the rates, presumably to get more revenue, and they are adding it onto us, thereby creating fourth section violations.

Senator MCLEAN. What you would like would be as cheap a rate as possible to the competing markets?

Mr. GRAFF. Surely. Without it we can not do business. If they put that rate up to 97½ cents, Idaho can not sell a car.

Senator MCLEAN. You believe in competition amongst producers?

Mr. GRAFF. Surely, but I do not believe in a preferential system that knocks out competition.

Senator STANLEY. What is the weight of those potatoes?

Mr. GRAFF. 60 pounds.

Senator STANLEY. The rate is about the same as the bulk?

Mr. GRAFF. Yes; they have sold potatoes for less than 97½ cents a bushel—many carloads of them. No, that would be two bushels.

Senator POMERENE. We occasionally buy them at 50 cents apiece at the hotels.

Mr. GRAFF. They are quite valuable now, I will admit. I will bring up now the subject of the wool rates. Our wool rate is $2.14 a hundred. From Lime, Oreg., 100 miles west of us, their rate is only $1.25. That $1.25 rate from the Pacific coast is carried 400 miles inland; but when they get to Idaho, where we have the wool—of course, they have some wool in eastern Oregon, too, but we have a greater proportion of it in Idaho than there is in Oregon—they immediately raise it to $2.14 a hundred to Boston. That is still in effect.

Senator POINDEXTER. There was some question raised this morning as to whether that rate was still in effect.

Mr. GRAFF. It was in effect two weeks ago, when I left Boise.

The CHAIRMAN. What is the rate from Portland?

Mr. GRAFF. $1.25, and that runs 400 miles east.

The CHAIRMAN. And then it is raised to $2.14?

Mr. GRAFF. Yes, when they get into Idaho.

The CHAIRMAN. Does it keep on getting greater as it goes east?

Mr. GRAFF. No; at Boise we pay the highest rate, and it is a little bit less going eastward.

Senator POINDEXTER. What have they against you that they pick on you that way?

Mr. GRAFF. I have often wondered.

Commissioner CLARK. If I may be permitted to interrupt, that question was up this morning, and during the recess I looked into it. The eastbound rates were not involved in the commission's order regarding transcontinental rates; and I find it is true that the rates from intermediate intermountain territory on wool are higher than they are from the Pacific coast terminals; and, of course, there are varying rates, dependent upon the quality of the wool and the density of the compression, but an illustrative rate is the rate on wool in the grease, in bales, compressed to not less than 19 pounds per cubic foot, minimum weight 32,000 pounds, from Portland, Oreg., to Chicago, $1.25, and it is $1.25 to Boston.

From Salt Lake City the rate to Chicago is $1.62. To the Mississippi River it is $1.525, with no through rate to Boston. That is, no joint through rate, making the combination either on the Mississippi River or Chicago, whichever makes the lower.

Senator POMERENE. What would the combination rate be?

Commissioner CLARK. I have not the Mississippi River-Boston or the Chicago-Boston rate here, Senator.

Senator POINDEXTER. Why do they not give them a rate to Boston from the wool section?

Commissioner CLARK. Senator, I assume that the commercial relations are such that they sell their wool at the Mississippi River or in Chicago.

Senator POINDEXTER. They would be almost compelled to, if they have not a rate to Boston, would they not? The commercial relations are controlled by the rate very largely, are they not?

Commissioner CLARK. Yes; they are controlled by the rate. As I said before, the transportation conditions control the rates, and the rates are made to fit the traffic that moves; and without any spirit of controversy or criticism, I want to suggest that some of the things that this witness has been referring to are instances that if the traffic is there and wants to move, there would be no substantial difficulty about getting rates that would be appropriate for it. It very often happens that there is a commodity rate from a point where the traffic originates and offers in substantial quantities, and there has never been any movement or any offering at an intermediate point, and, therefore, the establishment of no commodity rate there; and then upon comparison with the class rate, which would apply if a shipment did move, like this carload of scrap iron, for example, or junk, it is unconscionably higher than would be an appropriate commodity rate.

Senator POINDEXTER. They do not give a commodity rate because there is no traffic, and there is no traffic because they do not give a commodity rate. That is the situation, is it not?

Commissioner CLARK. My only suggestion there is that if they stand off at long distance and complain about each other, they never get the rate and the traffic adjusted. If they would get together and make an effort to do it, there would not be any substantial difficulty about getting it, I think. From Denver the rate on wool in the grease, with the same compression, but with a lower minimum weight per car, is $1 to the Mississippi River.

Senator POMERENE. What is the rate to Boston?

Commissioner CLARK. That would be a combination on the Mississippi River, Senator.

Senator POMERENE. You mean that there is no through rate from Denver to Boston?

Commissioner CLARK. No, sir; no joint through rate. The shipment would go through, but the rate would be made on combination of rates to and from the Mississippi River.

Mr. GRAFF. We have a through tariff from Idaho points to Boston—a through commodity rate.

Commissioner CLARK. Yes, I have no doubt. There is not any from Salt Lake City.

Mr. GRAFT. These rates that I have been quoting are commodity rates.

The CHAIRMAN. Mr. Commissioner, there was a statement made the other day by a witness, which attracted a good deal of attention—a man from Utah. He said that wool in Utah was shipped in bags from Utah points to Los Angeles at some rate—I do not remember just what it was—and there baled and shipped back again over the same rails through the same points of origin to Boston at $1.25 a hundred, I think it was. What do you know about any such practice as that?

Commissioner CLARK. I do not know anything about that, but I would presume he was talking about points in southern Utah, along the line of the Salt Lake-San Pedro Railway.

The CHAIRMAN. Yes; he was talking about points on the line from Salt Lake City to Los Angeles.

Commissioner CLARK. Yes.

The CHAIRMAN. The railroad picks up the wool in bags, hauls it an average of 750 miles directly southwest to Los Angeles, and there bales it and brings it back through the point of origin to Boston, at a rate of $1.25 a hundred, while the rates that are charged on the same wool from those same points directly east to Boston is something like $2.62 a hundred, I think it was. That was so remarkable an instance that I could not refrain from calling it to your attention. Of course, I know that the commission can not correct these things until they are called to its attention.

Commissioner CLARK. I can not say why these wool rates have not been adjusted.

Mr. GRAFF. These wool rates from Idaho are Interstate Commerce Commission made rates, made in 1911, and in 1917 I got some figures which showed that 30 per cent of the Idaho wool went down to Portland before going to Boston. It was baled in Portland.

Senator POMERENE. Where did the rest of it go?

Mr. GRAFF. Direct from Utah to Boston.

Senator POMERENE. On the increased freight rates?

Mr. GRAFF. At the sack rating, probably 30 or 40 cents higher than the baled rate.

The CHAIRMAN. Do you mean that you could shear your sheep and ship the wool in bags to Portland, and there bale it and ship it back to Boston more cheaply than you could ship it from Idaho to Boston?

Mr. GRAFF. More cheaply than our sack rating. We have no baling facilities in Idaho.

Senator POINDEXTER. You could have if you had a rate?

Mr. GRAFF. Yes; we could bale it there and ship it, if we had a rate.

Senator POINDEXTER. These rates are fixed by the commission?

Mr. GRAFF. Yes; these are comission-made rates from Idaho.

Senator POINDEXTER. Made by the Interstate Commerce Commission?

Mr. GRAFF. Yes.

Senator STANLEY. Is wool a considerable industry in your State?

Mr. GRAFF. Yes; we have about 20,000,000 pounds annually.

The CHAIRMAN. There is nothing about the process of baling wool that is difficult?

Mr. GRAFF. No; it just takes a press.

Senator McLEAN. If you had baling facilities in Idaho, the baled rate would automatically apply, would it not?

Mr. GRAFF. Our baled rate is 79 cents greater than that of the Pacific coast, so the facilities are not there. These wool buyers come into Idaho and take the wool into Portland and bale it there and store it and borrow money on it. That is our right, but by virtue of the rate structure we are compelled to let it go.

Senator POINDEXTER. They have to do that on account of market competition, I suppose?

Mr. GRAFF. Yes; it is market competition that requires Idaho wool to go down to Portland.

Commissioner CLARK. I am sorry I can not explain definitely about these wool rates. We did have a very exhaustive proceeding in connection with the rates on wool from the Pacific coast and intermediate territory. It is true that in that case we recognized water competition, because there was a very definite showing of the transportation of wool in large quantities by water from North Pacific coast and California ports. Later some controversies about them arose, and these questions of the rates from the interior points came in and we reopened some of those cases, and had some proceedings in connection with them, and Mr. Campbell, here, I think, was one of the leading spirits in bringing the matter to our attention, and there was an understanding or a promise to line those rates up; and, not speaking positively now, my recollection is that the period of the war came on, and Federal control of the railroads, etc., and I do not know what has happened to them since then.

The CHAIRMAN. What impressed me, Mr. Commissioner, aside from the injustice to the interior points, was the unnecessary hauling of this commodity a thousand miles, consuming the facilities of the railway companies, and committing, I think, a most extravagant waste. I could not understand that.

Commissioner CLARK. I offer neither excuse, apology, nor defense for it. I do not think any such adjustment of rates should stand. It is true—and we are, in part, responsible for it, and we think it is logical and proper—that the rates on wool in sacks, not compressed, is considerably higher per 100 pounds than on the same wool compressed to a density of 19 pounds per cubic foot.

The CHAIRMAN. That would be very proper, I think.

Commissioner CLARK. It is, because you can not get a reasonable carload of sacked wool into a car, while you can get a reasonable carload of baled wool in.

Senator POINDEXTER. That was not what they were complaining about. They were complaining about discrimination on the same class of wool.

Commissioner CLARK. I grant you that that is still there, but further than that, as I stated, I can not explain it at the moment.

Senator POMERENE. As I understood you, Mr. Commissioner, a moment ago, you did not have clearly in mind just what had been done by the commission, so far as these rates are concerned?

Commissioner CLARK. No; I have not the situation at the moment definitely in mind.

Senator POMERENE. Would you be willing to refresh your memory about that, and send us a statement of it, so that we may incorporate it in the record?

Commissioner CLARK. I shall be very glad to do that.

Senator POMERENE. And if you can, give the reasons which prompted the action of the commission in that behalf, so that we may have the benefit of that.

Commissioner CLARK. I shall be very glad to do that.

Senator POINDEXTER. Mr. Commissioner, I want to call your attention to an extract from the decision of the commission in the case of Monroe Progressive League *v.* St. L., M. & S. Railway Co. (15 I. C. C., 539), in which this language is used in the opinion of the commission:

> Complainant argues that, inasmuch as low rail rates have greatly reduced the steamboat traffic on the Mississippi River, water competition no longer exists at Vicksburg, and that, therefore, justification for the lower rates all rail from St. Louis to Vicksburg through Monroe is removed. The river, however, is still at Vicksburg, and any increase in the rail rates sufficient to induce the establishment of additional steamer lines would transform the diminished but strongly potential water competition into active water competition, which, once established, must continue.

That was the policy and the decision of the commission, was it not?

Commissioner CLARK. Yes.

Senator POINDEXTER. And under that, stated in somewhat different language from the language of the opinion but, in effect, the same, it allowed a railroad to make such a rate as to keep out water transportation?

Commissioner CLARK. No; it did not. We declined in that case to reduce the rates to Monroe. Now, there is a good deal in it besides that situation at Vicksburg. To begin with, the rates to Vicksburg and to New Orleans and Baton Rouge were there when the railroads went there. The boats made the same rates to Vicksburg that they made to New Orleans, and the railroads adopted the same policy, and those lower Mississippi River crossings always have been on a parity of rates. The rate is the same to Vicksburg from Chicago as it is to New Orleans. Another feature of that was the fact that Monroe, Alexandria, and Shreveport, forming the apexes of a triangle, have been for many years grouped under a common rate, known as the Shreveport triangle. Each had its water competition on the river that served it, and, in this case, Monroe was seeking, because it was a shorter rail haul from Vicksburg to Monroe than it was from New Orleans to Alexandria, to get out of that group; and Alexandria and Shreveport, in that same case, were protesting in most vigorous fashion against any disruption of the group.

Senator POINDEXTER. Yes; any disruption of the situation that had been created by discriminatory rates; and yet the decision assumes, as a fact, or at least assumes for the purpose of the decision, that there was no water competition at Vicksburg—"water competition no longer exists at Vicksburg." That was the contention of Monroe?

Commissioner CLARK. Yes.

Senator POINDEXTER. And the decision was based upon the assumption that that was a fact?

Commissioner CLARK. Not necessarily, Senator.

Senator POINDEXTER. There is another case, that of the Nevada Railroad Commission *v.* Southern Pacific Railway Co. (21 I. C. C., 358), in which the commission said:

> We have thus traced the history of this protracted struggle between the ocean and the land carriers that we might clearly appreciate the strategy of the railroads and its effect upon the ocean-borne traffic. One water route after another has been rendered innocuous. To meet the competition of the railroads the tendency of the ocean carriers has been to shorten the time consumed in passing by water from coast to coast.
>
> The clipper ship has been forced to give way to the steamship, and the steamship has been compelled to transship by rail a portion of the distance. The routes by way of Cape Horn and Straits of Magellan have been virtually abandoned. For nearly 40 years the Panama route has been under railroad control. When an attempt was made to reestablish this route as a vital competitor, the railroads used their own ocean-and-rail line to eliminate it from the field. * * * While they have subsidized, bought, and controlled the water carriers, there has always been present to the mind of the traffic manager of the transcontinental railroad the existence of the ocean and the possibility of its use. Without a ship upon it the ocean has the power to restrain, in some degree, the upward tendency of rail rates.

Does the commission still recognize that factor in granting relief from the fourth section of the act to regulate commerce?

Commissioner CLARK. You mean potential water competition?

Senator POINDEXTER. Yes.

Commissioner CLARK. I stated this morning that we did not.

Senator POINDEXTER. That was my understanding.

Commissioner CLARK. I stated very distinctly that we had modified our policy in that regard, and that we had discontinued granting any relief on account of water competition unless it was active and actual.

Senator POINDEXTER. How long a struggle did it require on the part of the parties interested before they got the commission to abandon that policy?

Commissioner CLARK. I do not know that I could answer that question categorically. I said this morning that we had been approaching this matter with some degree of caution, endeavoring not to disrupt things too severely. In the case from which you have last read—if I recognize it, and I think I do—you read from a report written by Mr. Commissioner Lane in the transcontinental case, and that is the identical case in which we, as I explained this morning, required them to take out of the coast group all the interior California cities and line them up on a basis of their distance from the water, giving each place the benefit of its proximity, and fixed the limitations within which they might continue to charge lower rates westbound to the California terminals, and to the north coast terminals as well, than to the intermediate points; and that is the case that went to the Supreme Court of the United States.

Senator POINDEXTER. Under that adjustment you have just spoken of, if I understand it, intermediate points, although on the Pacific Ocean, at a port, did not necessarily have terminal rates by reason of their location on the water, but you required a showing that ships actually stopped at those ports? Take in the State of Washington, for instance, under that. The Great Northern Railroad reaches the ocean at Everett. Near by, a little to the north, there is another seaport, Bellingham. They have fine harbors and are nearer to the ocean than is Seattle, but although they reached the water, they did not have the terminal rates that Seattle enjoyed.

Commissioner CLARK. My recollection is that both Everett and Bellingham were given the same rates as Seattle on a subsequent showing that there was actual water service to those points.

Senator POINDEXTER. They were given the terminal rates later on, but it was a long struggle before they got them.

Commissioner CLARK. Oh, no; it was not very long. Supplemental orders were issued very promptly upon a showing that there was actual water competition at those points.

Senator POINDEXTER. The terminal rates have existed at Seattle ever since the railroads came into there, some 35 years ago; but I think it is only within 4 or 5 years that Everett and Bellingham got their rates.

The CHAIRMAN. This witness is very desirous of getting away, and I called this meeting this afternoon largely to enable him to leave for home. Mr. Graff, you may proceed.

Mr. GRAFF. Now, the matter of discrimination to the southeast. I will call the committee's attention to a few instances:

Take canned goods, for instance, from Kansas City to Shreveport, La., a distance of 560 miles, and they charge for a 30-ton car $247.50. Had the shipment stopped at Dallas, Tex., they would have charged $345, or $97.50 more. That is from Kansas City.

On printing paper between the same points they charge $300 to Shreveport; they charge $412 to Dallas.

On structural iron they charge to Houston, Tex., 1,437 miles from Pittsburgh, as against Dallas, Tex., 1,320 miles, $449.40, and at Dallas or Forth Worth, $600.60, or $151.20 more.

There are a good many here, but I will not burden the record with all of them. I will cite a few commodities that are affected. There are fruit jars, agricultural implements, canned vegetables, and fish.

Senator POMERENE. Your purpose, I take it, is to show that these differentiations exist in other territory than the intermountain territory?

Mr. GRAFF. Yes; and the extent of the commodities affected. Glass lamp chimneys, wheelbarrows, cement, woven-wire fencing, cotton piece goods, sugar, and molasses—also necessities of life—harness and mill stuff, dried beans, dried fruit, canned salmon, flour. I think that covers the situation very thoroughly.

Now, Mr. Wettrick stated or intimated, rather, his fear that the water rate would be increased; that if the rail rate went up, the water carriers would immediately raise their rate. I want to say that I believe that is just the thing that will happen. I think the water carrier is just as selfish as the railroad and wants to get just as much money as he can, and if these discriminations are wiped out the water carriers will get just as much as they can, to avoid the rail rate. It relieves us to this extent, however; assuming a rate of $1 between New York and Portland, the dollar rate also applying at intermediate points.

Senator POMERENE. A rail rate you are speaking of?

Mr. GRAFF. Yes. Now, assuming that the water carrier desired to enter that traffic, and would make a rate of 80 cents at Portland, we would have a discrimination between the Pacific coast point and the interior of 20 cents. But instead of that the rail carrier, through the commission, will get permission to make an 80-cent rate in competition with the water carrier's 80-cent rate. The water carrier

then goes down to 60 cents. Our discrimination is then 40 cents; and thus it goes, until it was stated here that they made a rate as low as 25 cents a hundred, driven down by the water carriers, and we paid on that traffic $1.10. There is where our discrimination is, and the nearer you can keep the boat rate and the rail rate together, the less will be the discrimination against the interior. They have a right to live; there can be no doubt about it.

Senator POINDEXTER. If the railroads were required to make a nondiscriminatory rate at the water-terminal points—and we will suppose it to be higher than the existing rate—would not the natural law of competition result in the boat lines putting their rate up to approximately the same?

Mr. GRAFF. Naturally. They are not going to haul that traffic for a cent less than they can get for it.

Senator POINDEXTER. Consequently, there would be the same opportunity that existed before for the railroads to compete with the water carriers?

Mr. GRAFF. Just the same opportunity, exactly. I think that will be the inevitable result of the transcontinental situation.

Senator MCLEAN. Both rates should be regulated by the commission, should they not?

Mr. GRAFF. Yes, I think it would be a very good idea to give the commission power over both rates.

The CHAIRMAN. That would mean that the rates at the terminal points would have to be raised everywhere?

Mr. GRAFF. Yes. They will need more revenue, and there is no question about it, so why not raise them?

The CHAIRMAN. I am not arguing the matter, but I simply say you believe the outcome of a positive rule on this subject would be to increase the terminal rates and thus diminish the discrimination between the terminal points and the intermediate points?

Mr. GRAFF. I will say that if the rail rates were raised at the terminal points and discrimination wiped out, I will wager that the railroads would not generally raise the rates.

Mr. POMERENE. Your point is that if the Interstate Commerce Commission had full power over those water rates, as well as over the rail rates, it would enable them to fix all of these rates on a more equitable basis?

Mr. GRAFF. We think so, Senator.

Senator POMERENE. I agree with you.

Senator MCLEAN. You would not expect to get your rates reduced?

Mr. GRAFF. A rate is reasonable in so far as it is comparatively reasonable.

Senator MCLEAN. Mr. Clark, I would like to ask you one question before this witness goes. If these instances which he has cited were brought to the attention of the commission, would it require two years to have relief granted?

Commissioner CLARK. No; I do not think so, Senator.

Senator MCLEAN. You heard the statement of the witness?

Commissioner CLARK. Yes.

Senator MCLEAN. And assuming that there are many instances in the intermountain region, if they were brought to the attention of the commission, relief would be granted?

Commissioner CLARK. Undoubtedly. As I explained this morning, Senator, we dealt with the westbound rates in a long series of cases, in one of which we had to wait the decision of the Supreme Court; and I can not imagine that the commission would apply any different principle to the eastbound rates than it did to the westbound rates, because the same excuse must be offered as to the water on the Atlantic coast as on the Pacific coast.

Senator MCLEAN. In the normal course of things you have had a great deal of experience in considering those cases. Could you give the committee any idea of the length of time that would be required to adjust this situation?

Commissioner CLARK. Well, we could not adjust it now, except upon a complaint against the Director General's rates; but assuming that conditions were normal, as they previously were, I think with the information which the commission has gained, and the record made in the westbound case, that would go very far toward making up a record in the eastbound case, and unless the parties delayed it themselves—as they frequently do—before the case were submitted to the commission, it would not take any unusual length of time; and I believe that after the case were once submitted to the commission, it would be disposed of in, I will say, offhand, three months.

Senator POMERENE. Assuming that the lawyers and the traffic managers would not be unduly contentious, how long would it probably take the Interstate Commerce Commission to dispose of it?

Commissioner CLARK. I do not like to make any guess at the degree of contentiousness on the part of the traffic men and lawyers who are representing the interested and the contending cities. It is a three-cornered fight, or, rather, a four-cornered fight.

Senator MCLEAN. If you had jurisdiction and could take the initiative in this matter, and had the power to fix a minimum as well as a maximum rate, could you not grant relief in such cases as this almost immediately, with the information you already have?

Commissioner CLARK. No, hardly, under the present principle of law, which I think is sound—that we shall grant the parties full hearing. Chicago, for instance, would be interested.

Senator MCLEAN. I am assuming that the law gives you the power without any hearing to fix a maximum and a minimum rate.

Commissioner CLARK. I hope I will not see that day.

Senator MCLEAN. What is that?

Commissioner CLARK. I hope not to see that day.

Senator MCLEAN. You do not want that responsibility?

Commissioner CLARK. Oh, I do not think anybody could do it intelligently without a hearing.

Senator MCLEAN. I do not mean without an application; but take this case which we now have under consideration, presented by this witness. If that were brought to your attention in a formal way by the parties interested in Idaho, would it necessarily take a month to reach a decision on it?

Commissioner CLARK. No, not to reach a decision. I have said I thought the commission could dispose of the case within three months after it was submitted to it.

Senator POINDEXTER. How long has it been since the intermountain people first submitted their request for the removal of these discriminations to the commission?

Commissioner CLARK. 1906.

Senator POINDEXTER. Had it not been submitted before that?

Commissioner CLARK. I can not go back further than that, of my personal knowledge, when I went on the commission. The first complaint filed under the Hepburn law was the Spokane case.

Senator POINDEXTER. When did they get final relief? 1917, was it not?

Commissioner CLARK. Complete relief, you mean?

Senator POINDEXTER. Yes.

Commissioner CLARK. Yes, because the commission always took the position, until the water competition was gone, that there was controlling water competition there which it must recognize.

The CHAIRMAN. That is all, Mr. Clark.

Mr. GRAFF. This last case, which was decided in 1918, took two years. The complaint was first brought in 1916, and there was no water competition then, and it took two years to settle it, and there was still no water competition. If there had been, we would not have had it settled—and we paid the discriminatory rates during that two-year period. It is also to be noted that these discriminations are practiced at the interior points both on east and westbound rates. We pay a higher rate in both directions. I do not know that I have anything further to say.

Senator POINDEXTER. I just want to ask you one question: Whatever the cause is, whether it is actual or potential water competition or rail competition, the fact, nevertheless, is that your resources and the substance of your business is being constantly drawn away from you to competing cities, by reason of discriminatory rates?

Mr. GRAFF. Yes; they can not do business there, and they have to go down to the preferential points. It is quite natural that they can attract capital to those points. We are existing all right, but we want our share of the bigger things, and we can not get it.

The CHAIRMAN. Now, Mr. McGehee.

STATEMENT OF MR. ABNER J. McGEHEE, SECRETARY, ASSOCIATION OF COMMERCE, JACKSON, TENN.

Mr. MCGEHEE. Mr. Chairman and gentlemen, I am secretary of the Association of Commerce, of Jackson, Tenn., and I am also secretary of the Southern Interior Traffic Association, which has at the present time memberships in eight interior towns in Tennessee, four in Mississippi, and two in Kentucky. This latter association is being organized for the purpose of using every just and honorable means to secure the equalization of freight rates between the interior and river and coast cities, and its work will be directed along the lines of energetic and persistent demands upon the Government traffic committees by prosecuting the matter before the Interstate Commerce Commission and by efforts to secure legislation by Congress to prevent the unjust discriminations which are practiced against the interior cities and in favor of the water cities by the railroads of the country.

I am not a freight traffic expert, hence do not come to this committee with a lot of theories and prophecies as to what might happen if the long-and-short-haul bill is passed, but I come as the representative of the poorer business interests of the country, seeking to develop under adverse treatment by the public carriers, and stating facts as they

exist and their bearing upon the business development of the interior points.

In order that this committee may be impressed with the difficulties attendant upon the effort of unorganized interests to correct the abuses under which they labor and to impress the urgent importance of immediate legislation by Congress to cure this evil, I will give a running history of my efforts in this matter.

Having for many years made energetic efforts to develop my home town of Jackson, Tenn., and at all points being thwarted by the excessive freight rates, I accepted the secretaryship of the Association of Commerce on July 1, 1918, for the express purpose of making a fight to have corrected the great disparity of rates between Jackson and our closest competitor, Memphis, Tenn.

I took up the matter by correspondence with the Congressman of our district and also our Senators, urging them to give me assistance in this matter, and asking for suggestions as to the best methods of procedure to obtain relief.

Each of these submitted my letters to the Government Traffic Committee, and the Washington office replied to them instructing me to take up the matter with the South Eastern Traffic Committee at Atlanta, Ga.

I submitted copies of these letters, together with instances of discrimination, to the Atlanta committee, and was instructed to lay the matter before the railroads that served our city.

In answer to this suggestion I informed the committee that we would not spend time and money discussing the matter with any agents of the owners of the railroads, since we had been doing this for the last 40 years without results, and since the railroads were under the control of the Government we would communicate only with such men as were the accredited officials of the Government. In a little while the Atlanta committe informed me that a subcommittee had been established at Louisville, Ky., which had jurisdiction over the railroads coming into west Tennessee, and instructed me to submit to that committee all of my facts, arguments, and demands.

I submitted copies of all of this correspondence and numerous examples of freight discrimination to the Louisville committee and asked for instruction as to what method of procedure would be demanded by them, and was informed that no formality was necessary, but simply to submit the matter in any practical shape that was desired by me.

Jackson, Tenn., is a city of some 20,000 inhabitants, situated in the center of west Tennessee, 114 miles south of Cairo, Ill., 85 miles to the northeast of Memphis, and 151 miles west of Nashville.

In our efforts to develop the city we have bought every railroad that comes to us, having contributed $55,000 to the Mobile & Ohio; $65,000 to the old Mississippi Central, which is now owned by the Illinois Central; $125,000 to the Tennessee Midland, now owned by the N. C. & St. L.; $75,000 to the Birmingham & North Western; and $100,000 to the Gulf, Mobile & Northern, now being completed into the city.

In spite of this contribution and the number of railroads thus purchased by us, we have always suffered under an unreasonable and unjust taxation from them in freight rates, and in order to demonstrate this proposition, I desired to establish the facts in the case,

not from theories or from general freight tariffs, but by getting examples under which the every-day business of our city was conducted. So that I requested some of our business men to write to the jobbers from whom they purchased their goods and ask them to submit a statement of freight rates from their city of Jackson, Tenn., as compared with several river and other interior points.

I pursued that method for one reason, because we had no means of getting at the freight rates, and then to show that business actually moved upon these rates.

As a result of this request letters were received by these business men, and I offer a few of them as exhibits to my testimony before the committee. The question of most vital importance to all the people being, of course, something to eat, I submit a letter from Ballard & Ballard on flour from Louisville, Ky. (Exhibit A).

A letter from the Mahaffy Co., Chicago, Ill., on rates on potatoes (Exhibit B).

A letter from the Paxton Canning Co., Paxton, Ill., on canned goods (Exhibit C).

From Scottsburg Canning Co., Scottsburg, Ind., on canned goods (Exhibit D).

From the American Sugar Refining Co., New Orleans, La., on sugar (Exhibit E).

A letter from the Louisville Traffic Committee, on the rates on sugar (Exhibit F).

A letter from Penick & Ford, New Orleans, rates on molasses (Exhibit G).

From Church & White Co., New York, rates on bicarbonate of soda, from Syracuse (Exhibit H).

Most men, even in the poor interior towns, use tobacco, and I submit a letter from Liggett & Myers Tobacco Co., St. Louis, Mo.(Exhibit I).

In order to live we must keep warm and cook our food, so that I offer a letter from the Charter Oak Stove & Range Co., St. Louis, Mo., on stoves (Exhibit J).

Since we must build houses and till the soil, and to show what high freight rates we pay to do this, I offer a letter from Cole Manufacturing Co., Chicago, Ill., on hardware (Exhibit K).

Also Belknap Hardware Manufacturing Co., Louisville, Ky. (Exhibit L).

We can neither work nor play all the time and must sometime sleep, so I offer a letter from American Bed Co., St. Louis, Mo. (Exhibit M).

Also from Giant Furniture Co., High Point, N. C. (Exhibit N).

Even in this far southern country, we can't go barefoot all the time, and I offer a letter from Selz, Chicago, Ill., on shoes (Exhibit O).

Also from the Endicott Johnson Co., Endicott, N. Y., on shoes (Exhibit P).

When we build houses, we are still subject to this excessive taxation, as is shown by rates furnished by Central Lumber Co., of Jackson, Tenn. (Exhibit Q).

And also Pittsburgh Steel Co., Pittsburgh, Pa. (Exhibit R).

If we would indulge in the pleasure of music, this tax still follows us, as is shown in letter of Estey Piano Co., New York (Exhibit S).

When we engage in manufacturing and shipping to other points, the discrimination is fully as great, as is shown by letter of Southern Engine & Boiler Works, Jackson, Tenn. (Exhibit T); also Exhibit U and Exhibit V.

In marketing our cotton, we are confronted with the same proposition as set out in Exhibit W.

In all matters and characters of freight, from wherever shipped, we must pay this excessive tax on all kinds of goods, as illustrated in Exhibit X.

And, not satisfied with taxing living from the cradle to the grave, they tax us for the death, as illustrated in Exhibit Y.

Senator POINDEXTER. Suppose you file those with your testimony.

Mr. MCGEHEE. These exhibits?

Senator POINDEXTER. Yes.

Mr. MCGEHEE. Very well. Now, then, having been told by the Atlanta committee and Mr. Dewberry, of the Louisville committee, that the Interstate Commerce Commission, in a decision a few years ago, had allowed them to make these fourth-section departures on account of potential river competition—something that we fellows in the interior could not understand—I did not want to go into this fight with any second-hand information. I wanted, when I testified as to the facts in the case, to know what those facts were, so that early in September I went to Memphis and made inquiry as to the boat traffic, and learned that there was only one boat attempting to do business between St. Louis and Memphis, none between Louisville and Memphis, and none between Memphis and New Orleans, the farthest south being to Helena, Ark., the *Katie Adams*, and that was quite a coincidence, that the day of my arrival in Memphis the *Katie Adams* arrived there, having been hung up 18 months on the sandbar at Helena, Ark. There were one or two tramp boats that ran up to nearby points, but they had no connection with Memphis. I lived in Memphis five years, and I know those business men. I went to their places and talked with them. I said, "Well, Mr. So-and-so, do you ship anything by boat from St. Louis?" I knew that Memphis did not buy anywhere else. "No." I would put their names down. I called on 176 of those business men, and all but a very few would answer "No." Of course, that ended the conversation. If a business concern would say, "Yes," I would say, "What product do you ship?" Sometimes the most of it was flour and some little of it hardware and some little furniture. If they said they shipped any products at all, my question then was, "What percentage of your shipments are made by river?" That would stump them, and they would say, "I do not know." "Fifteen per cent?" "No." "Ten per cent?" "Five per cent?" "No." "Well, what per cent? One per cent?" Some few said 10 per cent and three or four said 5 per cent. A great many of those gentlemen sat down and told me why they did not patronize the boat lines. They went on to tell me that the parties that they bought from were located on the railroads; that they had a switch right to their door; that they had the railroad, when it got to Memphis, right at their door; that their out shipments were delivered from their door, and a great many of them objected to the damage to their goods in draying it from the boats and back; and I left Memphis with an estimate that for the last 21 years when the old Anchor Line was destroyed by a storm on the Mississippi

River, if you will take the history of the boat traffic that has been making us pay 100 to 200 per cent higher at Jackson, Tenn., than Memphis has been paying, it would not be one-thousandth of 1 per cent of the freight shipments at Memphis, Tenn.; and that is the reason we come to this committee and ask you for legislation to stop that discrimination.

The CHAIRMAN. That problem would easily be solved if that were all that is before the committee, but suppose there were an actual movement of traffic by boat on the Mississippi River. Do you then believe you should bear a higher rate for the shorter distance?

Mr. MCGEHEE. I do not, because there has never been anything competitive shipped on the Mississippi River. If they were to establish boat lines now, or on this boat line that the Government is going to establish, there is no commodity that is consumed by the people of Memphis and Jackson that could possibly be competitive in any river traffic.

Senator POINDEXTER. You mean by that that the railroads can doubtless always compete with the boat lines?

Mr. MCGEHEE. The stuff does not originate at a place where it could be carried by water. That is what I mean. For instance, you ship from the East. They could go away around and come up the Mississippi River by virtue of a boat line, say, and there might be some little shipments from the East in that way, but you take the goods we buy from Chicago and the North and Northeast, and all like that, and there is no water route at all from Chicago and all of that interior country where we buy our goods to Memphis.

Senator STANLEY. Could the steamboats from Pittsburgh reach you?

Mr. MCGEHEE. They might, but I found out at Cairo that there had not been a boat on the Ohio River from Louisville to Cairo in over 15 years.

Senator POMERENE. You mean that there was no freight boat from Louisville to Cairo in that time?

Mr. MCGEHEE. They told me there had not been a boatload of freight from Louisville to Cairo within 15 years, and the third man I called on told me that, and he asked me, "When did you get out of the lunatic asylum?"

Senator STANLEY. The White Star Line went out of business about that time.

Mr. MCGEHEE. That line they explained to me came up the Tennessee River. They explained to me it had been so long that they had forgotten it. Some said 12 years and some said 15 years since they had a boat line between Louisville and Cairo. Now, then, the main thing, following the line of our efforts here, was the rates on sugar from New Orleans. That was, to Memphis, Tenn., 15 cents; to Cairo, Ill., 39 cents; to Paducah, Ky., 39 cents; to Nashville, Tenn., 25 cents; to Louisville, Ky., 44½ cents; to Cincinnati, Ohio, 46 cents; to Chicago, 45 cents; to Jackson, Tenn., 31½ cents. Now, when I first took up this proposition the rate to Cairo was only 23 cents, and to Memphis 15 cents, and to Jackson 31½ cents. I told the Illinois Central I was going to the Interstate Commerce Commission with it. They immediately put Cairo up to 39 cents, because it had to come right through our town in the same direction, but they left Memphis at 15 cents. The result of that was that the Memphis wholesale

men—and, by the way, one of the most successful grocerymen we have ever had, having a house at Humboldt and at Jackson—within the last year has moved to Memphis and opened up a house in order to get to the territory that he could not reach from Jackson. Memphis could come right to the doorstep of the jobber in Jackson and undersell him. I kept pestering the railroad committees on that. I would write letters saying that we were helping the Government win this war, and that we were buying thrift stamps, and why should the Memphis man get his sugar so much cheaper than the Jackson man, so along in February, the 15th of February, after beginning with the sugar matter on July 1, I received this letter from the Louisville committee:

EXHIBIT F.

LOUISVILLE, KY.,
February 15, 1919.

Mr. A. J. McGEHEE,
Secretary the Jackson Association of Commerce,
Jackson, Tenn.

Sugar, New Orleans, La., to Jackson, Tenn., as compared with Memphis, Tenn. Complaint of J. C. Felsenthals Co., of Jackson, Tenn., through Jackson Association of Commerce.

DEAR SIR: Your favor of the 14th instant. The present and proposed rates to the points named in the American Sugar Refinery Co.'s letter, which you sent us with your favor of August 31 are as follows:

Cities.	Present.	Proposed.	Cities.	Present.	Proposed.
	Cents.	*Cents.*		*Cents.*	*Cents.*
Memphis	15	34	Louisville	44½	44½
Cairo	39	41½	Chicago	45	45
Paducah	39	41½	Cincinnati	46	45
Nashville	23	41½	Jackson	31½	39

It seems to us the proposed adjustment will afford material relief to the people of Jackson, and we will be glad to have an expression of your views.

Yours, truly,

LOUISVILLE DISTRICT FREIGHT TRAFFIC COMMITTEE,
By J. W. DEWBERRY, *Charman.*

This proposition raised a storm all up and down the Mississippi Valley. The Wholesale Grocers' Association got together in Memphis and proposed to spend $100,000 to defeat that change in the sugar rate alone; but they were advised they had better let it alone, and it went into effect. Just how long it will stay that way I do not know. At any rate, there is one little relief that I have gotten as a result of an every day, every night, and Sunday fight since July 1, 1918, on the discrimination in freight rates between Jackson and our competing city, Memphis, Tenn.

The CHAIRMAN. If it is possible, we hope you will put into the record some of these instances without reading them.

Mr. MCGEHEE. Yes; there are a number of these, and I do not want to burden the record with illustrations.

The CHAIRMAN. Our problem here is whether we are going to make a rigid long-and-short-haul clause. You have already shown us, very conclusively, that Jackson is having a very hard time of it. That there is no doubt about, but please address your remarks now to the merit of our proposed legislation.

Mr. McGEHEE. Then I wish to put into the record these exhibits showing the rates in different directions; and then, in order to show that Jackson, Tenn., is not the only place, but that the whole Southeast is that way, I offer exhibits of I. C. C. Docket No. 10344, in a hearing in which I was interested at Jackson, Miss., in a case that has just now gone up before the Interstate Commerce Commission.

The CHAIRMAN. They will be printed in connection with your testimony.

Mr. McGEHEE. Now, it seems to me, gentlemen, it is not a question so much as to who is for this bill and who is opposed to it. We may just settle that whole matter by saying that all who have the preferential rates are opposing the bill, and all who have these higher rates, when they wake up, are for the bill.

I wish to correct the impression sought to be made upon this committee by Mr. Chandler, of Boston, who declared that 99 per cent of the shippers of the Southeast were satisfied. This statement is not true as to any shipper located in any interior town not having the preferential rates that have been accorded to them by the railroads on account of so-called potential water competition; and on this same subject I wish to correct the impression sought to be made by Mr. Gaskie, secretary of the Southern Traffic League, and Mr. Cottrell, of Atlanta, the attorney for this league, who stated to the committee that the membership of the league included all of the important towns of the Southeast, and that they were upon record, protesting against the passage of the long-and-short-haul bill. It is true that many of these interior towns are members of the Southern Traffic League, but that league is so dominated by the water and other favored points that a discussion of this question is entirely prohibited at any of their meetings, and the interior towns are members for the purpose of discussing other phases of transportation, and are most earnest in their demands that a law be passed that will remove this discrimination.

Now, gentlemen of the committee, we have shown you the conditions as they apply to Jackson, Tenn., and as proof that this same condition exists in other interior communities of the Southwest, I offer exhibits numbered from 1 to 8, of the Interstate Commerce Commission docket 10344, at the hearing before the examiner of the Interstate Commerce Commission at Jackson, Miss., on March 28, 1919.

As fast as the business men of the Southeast can be informed as to the extent and injustice of the discrimination against them, they will demand in no uncertain terms the prompt correction of same, and as it is a long and doubtful road, under the present law, to secure any kind of relief from the traffic committees and the Interstate Commerce Commission, we are urging upon Congress to pass at once some legislation that will cure and forever end this injustice, and we believe that the Poindexter long-and-short-haul bill will accomplish this result.

Whether it would result in the establishment of a mileage basis of rates or not, I have no prophecy to make, but I do believe that it would result in justice to all people and neighborhoods in the United States, and special privileges for none, and would prevent such wasteful competition between the carriers as has been called attention to in this hearing, and so glaring as to lead one of the Senators to

remark that he believed a special investigation of Congress should be set on foot on this question alone.

I do not think anything would go further toward causing the railroads to stop and figure the cost of transportation and to cut out all wasteful effort and wasteful transportation, than would this bill. It might be necessary to supplement it by some other legislation, but this bill will be the great leveler that will do away with these injustices and will cause the railroads to get right down to, as the saying is, brass tacks on transporting freight.

While listening at the testimony in regard to the intermountain country, the thought has come to me that possibly the building of the Panama Canal had resulted in benefit only to the people located close to the Atlantic and Pacific coast, and will cause an extra burden to be placed upon all the interior people, unless some further legislation is had that will bring all water traffic under the control of the Interstate Commerce Commission the same as rail traffic, and that demand be made that accurate estimates of cost of transportation by water shall be made, including in it the consideration of the amount of money spent by the Government for building and maintaining this canal.

The same applies to transportation by river.

I am unable to see, gentlemen of the committee, the justice of the Government becoming a partner in one class of transportation and not in the other, especially where the contributions of the Government to maintain the channels for the free use of boats so greatly aggravates the question of the difference between the cost of water and rail transportation.

I have made an earnest search for an estimate of the cost of river transportation per ton-mile, so that it might be compared with the cost of rail transportation per ton-mile, and have been unable to find any estimate of the cost of either, made by the Interstate Commerce Commission, any railroad company, any water company, or any department of the Government.

We believe that water transportation should be preserved, if it can be made to the benefit of all the people, but it is evident that under the haphazard methods heretofore employed, it can not be preserved, and that the time has arrived when, in order to settle the general question of transportation, legislation must be had. When the true facts are found as to the real cost of these competing methods of transportation, it is our opinion that a great deal of the trouble now existing will disappear.

I wanted to read from a letter from Maj. Gen. Black, just one little paragraph. This is under date of April 22, 1919:

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, April 22, 1919.

Mr. A. J. McGEHEE,
General Secretary Southern Interior Traffic Association,
Jackson, Tenn.

MY DEAR MR. McGEHEE: I regret that it is quite impossible for me to take the time to give you the detailed information requested in your letter of April 14.

* * * * * * *

The agency to be selected—rail, water, or highway—should be determined in each case by the conditions prevailing, and this will be a function of the length of haul, the termini of the route, and the commodity to be transported.

In order to obtain this condition, it is essential that all of these agencies shall be on a footing permitting of equal development and that the cost of transportation shall be on a natural basis and not wholly artificial. At present, such is not the case; the development of the various agencies is utterly prevented by an artificial system of freight classification and freight rates designed to crush out all competition with the rail. Incidentally this system causes a marked discrimination and throws an undue part of the cost of the transportation of our country on interior cities. Before anything else is done, I believe it to be necessary to get this wrong righted. * * *

Upon the final refusal of the committees to correct any of these cases, in which they failed to find any mal-adjustment, except as between Jackson and Memphis, and falling behind the proposition that the Interstate Commerce Commission had already settled that question, and that the railroads had a right to make fourth section departures, I addressed a letter to Mr. Dewberry which has been read before this committee by Commissioner Woolley, at a former hearing, and is published in a report of the committee on that question, and I shall file that as a part of my testimony in this case.

The CHAIRMAN. Very well.

Mr. MCGEHEE. I do not think it would be necessary to take up the time of the committee in re-reading that letter.

As to the question of business competition which is dwelt upon so earnestly by those opposing this bill, contending that it will ruin the railroads and the country to force them to haul over the short routes, congest the crossings of the Mississippi River, and upset all of the freight fabric upon which the business of this country has been based for so many years, our opinion is that this great fabric and business, being based on injustice to the great majority of the people of this country, should be upset, and the quicker this is done the sooner general prosperity will come to all the people of this country, and the great interior producing sections be relieved of the burden of unjust taxation upon them.

In the matter of the fixing of rates between a straight and a more circuitous route, between competing points, I believe there would be an agreement for the longer route to fix the rate and both could participate in the business.

I find, gentlemen, that freight rates are a matter of understanding at all competing points. We have five railroads—four trunk lines—and you can not get a single rate in or out by one road without the consent of the other roads, and the consequence is you can go five miles out in the country where either the agreement made by the railroads, or a gentlemen's agreement or understanding between the railroads, does not interfere with you, and you can get much cheaper freight rates in and out than you can to ship in and out of Jackson, Tenn. I have tested that in trying to locate manufactories, and it seems to me that we need not worry much about what would become of two railroads, unless one was so exceedingly long, in regard to the business between two competing points, because they would get together and take care of it.

I do not believe that a law, simply authorizing the Interstate Commerce Commission to prescribe minimum as well as maximum rates for railroads alone, will cure our trouble. If it included river and all water traffic, it would be of great help, but we will find that when the Interstate Commerce Commission makes an effort to arrive at what is the per ton mile cost of rail traffic, that the representatives of the railroads will resist any figure that may be arrived at by the

Interstate Commerce Commission as not being applicable to their particular road; and it will be exceedingly difficult to get any substantial relief on this account.

I do not think it will be possible for the Interstate Commerce Commission within the next 25 years to propose a minimum rate that the railroads would agree to—and every railroad would be up in arms asking them for relief from those minimum rates, just as they are asking for relief from the fourth section.

We know that the principle upon which the long-and-short-haul bill is based is just and right, and should be the principle upon which the business of this country shall be conducted in the future, even though its strict application should take away from some of the larger cities the privileges they have heretofore enjoyed, and allow the weaker competitors to make some substantial expansion and growth and cause many of the expert traffic managers of railroads to be considered useless, and seek other professions. We believe that the passage of this bill will simplify a very much beclouded subject, and result in great economy of transportation and relieve the whole people of the loss of much time and money on this question. That this should be done was illustrated to me recently by the statement of a member of the Interstate Commerce Commission that he knew of a case in which the salary cost of the freight office to determine the question of how to ship the most advantageous way a small lot of furniture was $5.50, and the resultant freight bill on the transportation of that furniture was $4.50.

So that it seems to us, gentlemen, that this great trouble that we have here is resulting more from business competition between distributing points, business mix-ups, and the contests between business men to get ahead, than it is from any state of facts or rules that might be put into effect, if we get at it right, and I believe this long-and-short-haul bill is the most important that was ever proposed to settle every tangled question of transportation that we have before us right now.

The CHAIRMAN. If that is all, Mr. McGehee, I have promised that Mr. Loos shall be heard for 5 or 10 minutes.

EXHIBIT A.

LOUISVILLE, KY.,
September 4, 1918.

J. C. Felsenthal Co.,
Jackson, Tenn.

GENTLEMEN: In reply to your letter of August 26, we give you the rates on flour in carloads in cents per hundred pounds, and the mileage from Louisville to the following points:

To—	Rate.	Mileage.	To—	Rate.	Mileage.
Pensacola, Fla	$0.25	654	Cairo, Ill	$0.13	268
New Orleans, La	.22½	809	Jackson, Tenn	.25	313
Meridian, Miss	.31	546	Paducah, Ky	.12½	225
Nashville, Tenn	.12½	186	Corinth, Miss	.29	370
Memphis, Tenn	.14	380	Greenville, Miss	.22½	531

Louisville and St. Louis have always taken the same rate to Mississippi Valley territory. We are not informed as to the reason for this original adjustment, but presume that it was caused by the competition between St. Louis

and Louisville on river traffic to New Orleans, the river rates from Louisville and St. Louis to New Orleans and other points on the Mississippi River being the basis for the entire structure, we understand, to the Mississippi Valley territory.

From the figures we have given you, it would seem that Jackson, Tenn., is not out of line, except to Memphis, New Orleans, and Greenville, or the Mississippi River points. However, any of these rate matters can only be handled by preparing voluminous figures and drawing maps, and if you are endeavoring to obtain a general reduction in the rates to Jackson, Tenn., we certainly suggest that you have (if you have not already one) an experienced traffic man to make up the rate compilation and draw maps for your case.

Yours, truly,

BALLARD & BALLARD CO.,
By F. VON BORRIES,
Traffic Manager.

EXHIBIT B.

CHICAGO, ILL., *September 9, 1918.*

J. C. FELSENTHAL,
Jackson, Tenn.

GENTLEMEN: Replying to your letter received a few days ago with reference to freight rates on potatoes, we quote below the freight rates per hundred pounds to the different points, from Chicago, from Wisconsin, from Minnesota, and the distance from Chicago, central Chicago, and Minnesota loading sections 450 miles north of Chicago. We trust this will give you the information you want, but if there should be anything further, let us know.

To—	From Chicago.	Wisconsin.	Minnesota.	Distance from Chicago.
				Miles.
Cairo, Ill	20½	27½	30	363
Paducah, Ky	22½	29	32½	406
Nashville, Tenn	35	46	47½	444
Memphis, Tenn	35	40½	40½	534
Jackson, Tenn	49	56½	61½	477
Corinth, Miss	54½	62½	67½	487
Meridian, Miss	49	56½	61½	735
New Orleans, La	45	53	53	929
Jacksonville, Fla	55	68	72½	1,375

Yours, truly,

THE MAHAFFEY CO.

EXHIBIT C.

PAXTON, ILL., *September 7, 1918.*

J. C. FELSENTHAL CO.,
Jackson, Tenn.

GENTLEMEN: Having taken up the matter of freight rates on canned goods from Paxton, Ill., as requested in your letter of the 26th ult., we herewith tender these rates; we do not know to just what you refer in speaking of our group, but presume you have reference to the canneries in our immediate vicinity, such as Gibson Canning Co., 15 miles west of us, Bloomington Canning Co., 50 miles west, Illinois Canning Co. and Hoopeston Canning Co., Hoopeston, Ill., and Rossville Canning Co., Rossville, Ill., and Milford Canning Co., Milford, Ill., all of which are practically 25 miles east of us, and Iroquois Canning Corporation, 18 mies north of us at Onarga, Ill.

To—	Carload.	Less than carload.	To—	Carload.	Less than carload.
Cairo, Ill	$0.20	$0.28½	Jackson, Tenn	$0.51½	$0.89
Nashville, Tenn	.41	.92½	Meridian, Miss	.62½	1.12½
Memphis, Tenn	.30	.51½	New Orleans, La	.42½	.70
Paducah, Ky	.22	.31	Corinth, Miss	.51½	.89

It is quite probable the rate from these canneries will vary but little if any from the rates as given us by our local agent; it seems that our local agent, in submitting these rates, failed to mention the mileage, but presume you will have little difficulty in obtaining this mileage from your own local agent.

Very truly, yours,

PAXTON CANNING CO.

EXHIBIT D.

SCOTTSBURG, IND., *August 28, 1918.*

J. C. FELSENTHAL CO.,
Jackson, Tenn.

GENTLEMEN: In reply to yours of the 26th. We are advised by our local agent that the freight rates from this point to the following places are:

		Cents.
Cairo, Ill	per hundredweight	22
Memphis, Tenn	do	30
Paducah, Ky	do	24½
Jackson, Tenn	do	64
Meridian, Tenn	do	64
New Orleans, La	do	42½

We are unable to get the rate from Scottsburg to Nashville, Tenn., and Corinth, Miss. These rates have been asked for, and as soon as we are advised we will write you promptly.

It is impossible for us to give you the mileage that you ask for.

Trusting that this information will be of use to you, we are,

Yours, truly,

SCOTTSBURG CANNING CO.
W. E. EVERITT,
Sales Department.

EXHIBIT F.

File 1001.

NEW ORLEANS, LA., *August 28, 1918.*

J. C. FELSENTHAL CO.,
Jackson, Tenn.

GENTLEMEN: Replying to your letter of August 28, we give you below the present rates in cents per 100 pounds on sugar, carloads, from New Orleans to points mentioned; also what we understand to be the short-line mileage from New Orleans to these points.

Cities.	Rate.	Mileage from New Orleans.	Cities.	Rate.	Mileage from New Orleans.
	Cents.			*Cents.*	
Memphis, Tenn	15	[1] 396	Louisville, Ky	44½	[3] 809
Cairo, Ill	[2] 39	[1] 566	Cincinnati, Ohio	46	[4] 836
Paducah, Ky	39	[1] 562	Chicago, Ill	45	[1] 930
Nashville, Tenn	23	[3] 623	Jackson, Tenn	31½	[1] 442

[1] Illinois Central Railroad.
[2] Was 23 cents.
[3] Louisville & Nashville Railroad.
[4] Mobile & Ohio.

Yours, truly,

THE AMERICAN SUGAR REFINING CO.,
TRAFFIC DEPARTMENT.
J. W. ELIZARDI.

EXHIBIT G.

[Penich & Ford (Ltd.), molasses and sirups, Traffic Department.]

NEW ORLEANS, LA., *August 30, 1918.*

J. C. FELSENTHAL,
Jackson, Tenn.

GENTLEMEN: Agreeable with your request of the 26th instant, we quote below the rates on molasses and sirup, carloads, from New Orleans:

Jackson, Tenn., 26½ cents; minimum carload weight, 36,000 pounds.
Memphis, Tenn., 19 cents; minimum carload weight, 30,000 pounds.
Cairo, Ill., 26½ cents; minimum carload weight, 30,000 pounds.
Paducah, Ky., 26½ cents; minimum carload weight, 30,000 pounds.
Nashville, Tenn., 29 cents; minimum carload weight, 30,000 pounds.
Louisville, Ky., 29 cents; minimum carload weight, 30,000 pounds.
Chicago, Ill., 36½ cents; minimum carload weight, 30,000 pounds.

Yours, truly,

W. W. INGALLS, Jr.

EXHIBIT H.

NEW YORK, N. Y., *September 4, 1918.*

J. C. FELSENTHAL CO.,
Jackson, Tenn.

GENTLEMEN: In reply to yours of August 26, we hand you below carload rates of freight on bicarb soda from Syracuse to the points mentioned by you. We are unable to give you the mileage.

City.	Rate.	City.	Rate.
New Orleans, La	$0.60	Memphis, Tenn	$0.41½
Pensacola, Fla	.60	Paducah, Ky	.27½
Meridian, Miss	.74	Nashville, Tenn	.45
Corinth, Miss	.60½	Cairo, Ill	.27½
Jackson, Tenn	.64½		

We remain, yours, very truly,

CHURCH & DWIGHT CO.

EXHIBIT I.

[Liggett & Myers Tobacco Co.]

ST. LOUIS, MO., *August 30, 1918.*

J. C. FELSENTHAL CO.,
Jackson, Tenn.

GENTLEMEN: Replying to your letter of August 26, the ileage and the rates on tobacco from St. Louis to points specified are as follows:

To—	Miles.	Rates.	
		Smoking tobacco.	Plug tobacco.
New Orleans, La	I. C., 717	$0.81½	$0.56½
Pensacola, Fla	L. & N., 719	.81½	.56½
Meridian, Miss	M. & O., 522	1.41½	1.02½
Corinth, Miss	M. & O., 328	1.21½	.84
Memphis, Tenn	I. C., 321	.62½	.44
Paducah, Ky	I. C., 171	.45	.31½
Nashville, Tenn	L. & N., 323	.87½	.60
Cairo, Ill	I. C., 151	.37½	.29
Jackson, Tenn	M. & O., 271	1.11½	.79

Yours, respectfully,

J. L. MCNICHOL,
Traffic Manager.

EXHIBIT J.

CHARTER OAK STOVE AND RANGE CO.,
St. Louis, Mo., October 1, 1918.

ALEXANDER FURN. CO.,
127 East College St.,
Jackson, Tenn.

GENTLEMEN: Replying to yours of the 25th, the railroad companies advise us that the rates of freight on stoves to the points which you name are as follows:

Cities.	Less than carload.	Carloads.	Cities.	Less than carload.	Carload.
Cairo, Ill	29	19	Meridian, Miss	86½	65
Jackson, Tenn	79	49	New Orleans, La	69	47½
Memphis, Tenn	56½	35	Pensacola, Fla	69	47½

Yours, truly,

CHARTER OAK STOVE & RANGE CO.

EXHIBIT K.

COLE MANUFACTURING CO.,
Chicago, Ill., September 12, 1918.

MCGEE-ROSS HARDWARE CO.,
Jackson, Tenn.

GENTLEMEN: Replying to yours of the 9th, wish to advise that the carload rate on stoves from Chicago to the points mentioned, are as follows:

Chicago to Memphis, Tenn., $0.42½ per hundredweight, minimum weight 20,000 pounds.

Chicago to New Orleans, La., $0.55 per hundredweight, minimum weight 20,000 pounds.

Chicago to Paducah, Ky., $0.27½ per hundredweight, minimum weight 24,000 pounds.

Chicago to Cario, Ill., $0.24 per hundredweight, minimum weight 24,000 pounds.

Chicago to Jackson, Tenn., $0.57½ per hundredweight, minimum weight 20,000 pounds.

Yours, very truly,

COLE MANUFACTURING CO.

EXHIBIT L.

LOUISVILLE, KY., *August 15, 1918.*

GOOCH-EDENTON HARDWARE CO.,
Jackson, Tenn.

GENTLEMEN: Answering your postal card requesting our traffic department to give you first, second, third, fourth, and fifth class freight rates from Louisville to certain points, our traffic department reports as follows:

Cities.	First class.	Second class.	Third class.	Fourth class.	Fifth class.
Jackson, Tenn	111½	95	79	64	49
Paducah, Ky	45	37½	31½	24	19
Memphis, Tenn	81½	62½	56½	44	37½
Vicksburg, Miss	112½	94	81½	62½	[1] 50
Cairo, Ill	64½	55	44	33	[2] 23
Corinth, Miss	121½	104	84	70	56½
Chattanooga, Tenn	95	81½	71½	59	50

[1] Rules 25 and 26.

[2] Rules 35 and 47.

The rates to Cairo are governed by the official classification, and all other points by southern classification.

Hoping this information will be of service to you, we are,

Very truly, yours,

BELKNAP HARDWARE & MANUFACTURING CO.

EXHIBIT M.

ST. LOUIS, MO., *November 20, 1918.*

ALEXANDER FURNITURE CO.,
Jackson, Tenn.

GENTLEMEN: Complying with your request of the 8th instant, for freight rate covering furniture and iron beds to various points, are as follows:

To—	Furniture, carload.[1]	First.	Second.	Iron beds, car load.	
				Third.	Fourth.
Jackson, Tenn	$0.79	$1.115	$0.95	$0.79	$0.64
Memphis, Tenn	.44	.815	.625	.18	(2)
Meridian, Miss	1.025	1.44	1.225	.865	.....
Mobile, Ala	.625	1.125	.94	.54	(2)
New Orleans, La	.625	1.125	.94	.54	(2)
Cairo, Ill	.29	.475	.375	.18	(3)
Birmingham, Ala	1.10	1.50	1.265	.915	(2)

[1] 12,000 pounds. [2] 20,000 pounds. [3] 16,000 pounds.

Trusting this is the desired information, and that you will have no trouble in getting a lower rate, we remain,

Yours, very truly,

AMERICAN BED CO.,
H. O. PEMBERTON, *Traffic Manager.*

EXHIBIT N.

HIGH POINT, N. C., *November 20, 1918.*

ALEXANDER FUNNITURE CO.,
Jackson, Tenn.

GENTLEMEN: With further reference to your favor of the 8th inst., beg to give you below the carload and less-than-carload rates to the different points in question.

Furniture taking third-class carload and second-class less than carload in southern classification.

Cities.	Carload.	Less than carload.	Cities.	Carload.	Less than carload.
Cairo, Ill	$0.82½	$1.02½	Birmingham, Ala	$0.80	$0.99
Memphis, Tenn	.72½	.90	Mobile, Ala	.72½	.99
Meridian, Miss	.80	.99	Jackson, Tenn	1.06½	1.26½
New Orleans, La	.72½	.90			

Trusting this is what you desire, we are

Yours, very truly,

GIANT FURNITURE CO.,
JNO. H. SHAW,
Secretary and Manager.

EXHIBIT O.

CHICAGO, ILL., *September 27, 1918.*

W. L. STEGALL, *Jackson, Tenn.*

DEAR SIR: Referring to your inquiry of September 23, according to our records, freight on shoes from Chicago, Ill., to—

Jackson, Tenn	$1.26½
Cairo, Ill	.46⅝
Memphis, Tenn	.85
Meridian, Miss	1.26
New Orleans, La	1.10
Pensacola, Fla	1.10

Yours, very truly,

SELZ SCHWAB & Co.,
Manufacturers of Good Shoes.

EXHIBIT P.

OCTOBER 4, 1918.

ENDICOTT JOHNSON CO.,
Endicott, N. Y.

(Attention of traffic department.)

GENTLEMEN: Replying to yours of October 2 requesting rate on shoes, less than carloads, from Endicott to various points would advise as follows:

Jackson, Tenn., through rate	$1.94
Cincinnati, Ohio, combination	1.87½
Louisville, Ky., combination	1.80½
Cairo, Ill., combination	1.55½
Cairo, Ill	99½
Memphis, Tenn., through rate	1.39
Cincinnati, Ohio, combination	1.54
Louisville, Ky., combination	1.50½
Cairo, Ill., combination	1.53
Meridian, Miss	1.70
New Orleans, La	1.55½
Pensacola, Fla	1.56½

This in connection with southeastern Mississippi Valley tariff excepting Cairo, Ill., which is covered by B–8900.

Yours, truly,

A. W. MICHILBACH,
Division Freight Agent.

EXHIBIT Q.

Freight rates furnished by Central Lumber Co., Jackson, Tenn.

	Carload.	Less than carload.
Portland cement, in cloth bags, from Mitchell, Ind., to—		
Jackson, Tenn	$0.19½	.....
Memphis, Tenn	.13	.....
Prepared roofing, in rolls, from Vandalia, Ill., to—		
Jackson, Tenn	.41½	$0.58
Memphis, Tenn	.19	.44

	Wood doors.		Glazed doors.		Glazed sash.	
	Carload.	Less than carload.	Carload.	Less than carload.	Carload.	Less than carload.
From St. Louis, Mo., to—						
Jackson, Tenn	$0.32½	$0.64	$0.32½	$0.79	$0.32½	$0.79
Memphis, Tenn	.25	.44	.25	.56½	.25	.56½
From Chicago, Ill., to—						
Jackson, Tenn	.42½	.72½	.42½	.89	.42½	.89
Memphis, Tenn	.30	.54	.30	.69	.30	.69

EXHIBIT Q—Continued.

Freight rates furnished by Central Lumber Co., Jackson, Tenn.—Continued.

	Wood moldings.		Prepared roofing.	
	Carload.	Less than carload.	Carload.	Less than carload.
From St. Louis, Mo., to—				
Jackson, Tenn	$0.44	$0.64	$0.37½	$0.49
Memphis, Tenn	.25	.44	.19	.27½
From Chicago, Ill., to—				
Jackson, Tenn	.51½	.72	.42½	.57½
Memphis, Tenn	.30	.54	.39	.46½

Rates from Louisville, Ky., on above articles are the same as from St. Louis, Mo.

EXHIBIT R.

PITTSBURGH, PA., *August 28, 1918.*

J. C. FELSENTHAL CO.,
Jackson, Tenn.

GENTLEMEN: Referring to your favor of August 26 regarding protest you are making to the Government for better freight rates to Jackson, Tenn., and you request us to furnish you with rates from Pittsburgh to the various points mentioned in your letter. The present carload rate on nails from Pittsburgh are shown as follows:

Cairo, Ill	per hundredweight	$0.35
Paducah, Ky	do	.35
Nashville, Tenn	do	.39
Corinth, Miss	do	.55
Jackson, Tenn	do	.52½
Memphis, Tenn	do	.32
New Orleans, La	do	.38½
Meridian, Miss	do	.59

Very truly yours,

PITTSBURGH STEEL CO.,
A. R. KENNEDY, *Traffic Manager.*

EXHIBIT S.

NEW YORK CITY, *September 24, 1918.*

SOUTHERN PIANO CO.,
Jackson, Tenn.

GENTLEMEN: Complying with yours of the 21st instant, regarding freight rates to different points mentioned, we are giving you below the amount to each point per hundred pounds, all over the Baltimore & Ohio Railroad.

Cairo, Ill	$1.35
Jackson, Tenn	1.91½
Meridian, Miss	1.67½
New Orleans, La	1.54
Nashville, Tenn	1.25
Pensacola, Fla	1.54
Memphis, Tenn	1.36½

Trusting this information will be of some service to you, we remain,
Very truly, yours,

ESTEY PIANO CO.

EXHIBIT T.

SOUTHERN ENGINE & BOILER MANUFACTURING CO.,
Jackson, Tenn.

Mr. A. J. MCGEHEE,
Secretary, Association of Commerce, City.

DEAR SIR: We quote below the rate in cents per hundred pounds on steel boiler plate and boiler heads from Coatesville, Pa., to—

Jackson, Tenn	63	McKenzie, Tenn	60½
Decatur, Ala	52½	Somerville, Tenn	62½
Humboldt, Tenn	62	Little Rock, Ark	60½
Nashville, Tenn	42½	Paducah, Ky	51½
Martin, Tenn	60	Corinth, Miss	64
Reeves, Tenn	60	Chattanooga, Tenn	52½
Paris, Tenn	60½	Memphis, Tenn	44
Sheffield, Ala	52½	Milan, Tenn	62
Hickman, Ky	61½	Obion, Tenn	64
Bells, Tenn	62	Union City, Tenn	60
Eads, Tenn	62½	Blytheville, Ark	60½
Kenton, Tenn	61½	Fulton, Ky	61½
Cairo, Ill	51½		

You will note from the above list that Jackson is out of line with every station named in this list.

Yours, very truly,

D. O. WILLIAMS.

EXHIBIT U.

SOUTHERN ENGINE & BOILER MANUFACTURING CO.,
Jackson, Tenn.

From Pittsburgh, Pa., to—	Rates.	From Pittsburgh, Pa., to—	Rates.
Jackson, Tenn	$0.52½	McKenzie, Tenn	$0.50
Bells, Tenn	.51½	Obion, Tenn	.51½
Corinth, Miss	.51½	Reaves, Tenn	.50
Decatur, Ala	.52½	Somerville, Tenn	.51½
Eads, Tenn	.51½	Union City, Tenn	.50
Chattanooga, Tenn	.44	Paris, Tenn	.50
Humboldt, Tenn	.51½	Little Rock, Ark	.52
Kenton, Tenn	.51½	Blytheville, Ark	.52
Memphis, Tenn	.32	Sheffield, Ala	.52½
Nashville, Tenn	.39	Paducah, Ky	.35
Cairo, Ill	.35	Fulton, Ky	.50
Milan, Tenn	.51½	Hickman, Ky	.49
Martin, Tenn	.50		

EXHIBIT V.

[Southern Engine & Boiler Works.]

JACKSON, TENN., *November 27, 1918.*

Mr. A. J. MCGEHEE,
Care of Association of Commerce, City.

DEAR SIR: Inclosed find list of rates from Ronda, N. C., to Jackson, Tenn., and other points on corn mills carload.

We use quite a number of these mills, and by glancing over this sheet you will, of course, understand where Jackson gets stung. Please handle in the proper way, and oblige,

Yours, truly,

SOUTHERN ENGINE & BOILER MFG. CO.
D. O. WILLIAMS.

Copy of rates on corn mills from Ronda, N. C., to various points.

To—	Rate.	To—	Rate.
Nashville, Tenn.	$0.75	Meridian, Miss.	$1.125
Cairo, Ill.	1.00	Memphis, Tenn.	.815
Dallas, Tex.	1.64	Shreveport, La.	1.325
Jackson, Miss.	1.29	Vicksburg, Miss.	.99
Jackson, Tenn.	1.225	Corinth, Miss.	1.275
New Orleans, La.	.865		

EXHIBIT W.

NOVEMBER 13, 1918.

Mr. J. M. DEWBERRY,
406 L. & N. Building, Louisville, Ky.

MY DEAR MR. DEWBERRY: I have been most earnestly investigating freight rates since July 1 in its relation to Jackson, Tenn., and, while I feel that some progress has been made, yet there is only one thing that I feel absolutely sure of, and that is when a column of freight rates appears anywhere you can put your finger on the highest figure and rest assured that, when you look at the left for the station indicated, you will find it is Jackson, Tenn.

As an illustration, I inclose you cotton tariff No. 11 issued by the N. C. & St. L. R. R. Co., in which you will find the rates on cotton to Hermitage, Tenn., from Atlanta, Ga., 287 miles, 65 cents; Chattanooga, Tenn., 151 miles, 60 cents; Memphis, Tenn., 238 miles, 60 cents; Jackson, Tenn., 152½ miles, 67 cents.

Such unreasonable, uncalled for discrimination against us is why we are complaining, and will continue to complain until condition of affairs shall have been corrected.

Please give this your immediate attention, and write me what we may expect of your committee.

Yours, very truly,

A. J. MCGEHEE, *Secretary.*

EXHIBIT X.

Marks Bros., freight sheet.

Cities.	Rates.			
	Commodity.	Class 1.	Class 2.	Class 4.
From Cincinnati, Ohio, to—				
Jackson, Tenn.		$1.27½	$1.09	$0.72½
Memphis, Tenn.		.94	.75	.50
Cairo, Ill.		.55	.46½	.23
Meridian, Miss.		1.54	1.32½	.95
Nashville, Tenn.		.77½	.62½	.45½
From Chattanooga, Tenn., to—				
Jackson, Tenn.	$0.62½	1.07½	.92	.62½
Memphis, Tenn.	.45	.95	.81½	.59
Cairo, Ill.	.50	.95	.81½	.59
Meridian, Miss.		.96½	.84	.59
Nashville, Tenn.	.27½	.51½	.44	.31½
From Fall River, Mass., to—				
Jackson, Tenn.		1.91½	1.62½	.99
Memphis, Tenn.		1.36½	1.12½	.62½
Cairo, Ill.		1.12	.97½	.83
Meridian, Miss.		1.72	1.49	1.11½
Nashville, Tenn.		1.25	1.04	.59
From Goldsboro, N. C., to—				
Jackson, Tenn.	.74	1.71½	1.48½	.91½
Memphis, Tenn.		1.26½	1.02½	.59
Meridian, Miss.		1.59	1.36½	1.01½
Nashville, Tenn.		1.15	.94	.55
From Knoxville, Tenn., to—				
Jackson, Tenn.	.57½	1.46½	1.25	.86½
Memphis, Tenn.	.55	1.07½	.94	.69
Cairo, Ill.	.57½	1.07½	.94	.69
From New York, N. Y., to—				
Jackson, Tenn.		1.91½	1.62½	.99
Memphis, Tenn.		1.36½	1.12½	.59
Meridian, Miss.		1.74	1.47½	1.11½
Nashville, Tenn.		1.25	1.04	.59
From Waco, Tex., to				
Jackson, Tenn.		1.84	1.56½	1.20
Memphis, Tenn.		1.71½	1.41	1.07½
Meridian, Miss.		1.57½	1.32½	.95

SPRINGFIELD, OHIO, *October 3, 1918.*

SPARKMAN UNDERTAKING CO.,
131 East College Street, Jackson, Tenn.

GENTLEMEN: We give you below the rates you request in yours of the 25th ultimo:

Cities.	Trucks.	Fluid.	Instruments.	Amb. baskets.	Vaults.
Cairo, Ill	$0.75	$0.75	$1.125	$2.25	$0.75
Jackson, Tenn	1.555	1.555	3.11	3.11	1.265
Memphis, Tenn	.99	.99	1.98	1.98	.765
Meridian, Miss	2.03	2.03	4.06	4.06	1.65
New Orleans, La	1.30	1.30	2.60	2.06	1.075
Pensacola, Fla	1.30	1.30	2.60	2.60	1.075

We can not give you the rate on coffins, as it would be necessary that we know the kind of coffin to be shipped, whether wood, metal, etc. We would suggest you write the Springfield Metallic Casket Co. of this city for this information.

Yours, very truly,

THE CHAMPION CHEMICAL CO.

EXHIBIT Z.

(6) The situation at Jackson, Tenn., may be taken as typical of the small city. This town in 1910 had a population of 15,779. The Illinois Central, the Nashville, Chattanooga & St. Louis, and the Mobile & Ohio systems enter there. Following is a letter under date of October 30, 1918, from A. J. McGehee, secretary of the Jackson (Tenn.) Association of Commerce, to J. M. Dewberry, chairman of the Louisville district freight traffic committee, United States Railroad Administration.

"I have submitted to your committee a great number of statements of freight rates, both to and from Jackson, Tenn., covering all parts of the country with which our people do business, and these statements furnish incontestible proof that this city, and in some degree all of the interior points of this section, has imposed upon it freight rates ranging from 50 to 150 per cent higher than from the same point and upon the same goods to Cairo, Memphis, and other river cities.

"This enormous, penalizing, and excessive levy of tariff upon us constitutes taxation without representation, without reason, and without recompense.

"We feel that this discrimination is against public policy, unjust, and can not be defended by either the owners and management of the railroads nor by the United States Government, which now has them under control.

"It is taxation without representation, because there has not been, and is not now, one single person who has authority or a voice in the matter of fixing these rates who lives in and has his personal fortune invested in any of these interior points.

"All railroad managers and large stockholders, whether they are conscious of the fact or not, have seemed to have in mind the future development and prosperity of towns and cities situated on the coast and rivers without considering the possibility of the development of the interior cities; and when this question is presented to them we have to combat not only the prejudices which have been instilled into them, but also their own personal interest.

"Since the management of the railroads has been taken over by the Government the same state of affairs exists and the interior is still left without representation.

"The director general, the regional directors, and the traffic committees are all men whose personal interests are entirely in sympathy with the present schedule of freight rates, which gives the favored point a tremendous advantage over the interior.

"These committees that have been formed for the purpose of considering these matters are composed of two members, who represent the railroad ownership, or a reversionary interest in the railroad; and one member who

represents the shippers of the country; but in every case this member is selected from the board of trade or traffic bureau of the favored cities.

"I am not calling your attention to these facts in order to intimate that they are not honest men and can not by some method or other be convinced that it is their duty to give honest and serious consideration to this matter, but merely to impress upon you the fact that the people of the interior have not been consulted in the making of these rates, and it has therefore been imposed upon them without their consent and without their having a 'friend at court.'

"It is taxation without reason, because there has not been found any sufficient excuse for establishing such a discrimination nor its continuation in the future.

"The owners of the railroads, the directors of traffic, the traffic committees, the traffic bureaus of all the cities, and all the people of these cities admit that there is no river competition with rail; so that the old excuse, which was given for the present rates to the river points, does not now exist, and as we think will not ever exist again.

"The excuse, which is now urged by all the points interested, namely, the boards of trade, the traffic boards, the freight agents of the railroads, and the people who have their interest invested in the river cities, is that if the freight rates should be raised to these points in the effort to bring about an equalization between these points and the interior the river traffic would be immediately revived.

"It seems to us in the interior that any man who would give this as an excuse or let it in any manner control his action in the matter, when he has any authority over the question of rates, would really be ashamed to admit to himself that he was influenced by any such narrow and selfish motive; but to our surprise all of the above-mentioned classes of people state openly and above board that this is the main and impelling reason why they oppose the increase of freight rates to these points. In fact, they declare that it is the general policy of the railroads to forever prevent the reestablishing of river traffic.

"The very statement of this determination is conclusive evidence that those who array themselves against us have adopted the policy that 'might is right,' and that they intend to maintain this attitude toward us regardless of how much it may violate public policy and the sense of justice and fair play.

"We contend that this does not furnish a sufficient reason for the continuance of this discrimination and if it did it is wrong, unjust, entirely out of all reason, a violation of the constitutional rights of the majority of the people and should be abandoned at the earliest possible moment.

"It is taxation without recompense, because there is no possible return or compensation given by the railroads to the people of the interior resulting from the levying of this excessive tax. In fact, every result of this discrimination aggravates the wrong imposed on the interior people.

"It is an inflexible law, that when a wrong course of action is pursued against any people the result of such action, whether intended or not, operates to increase the wrong, and in this case the result of the recent increase in rates and the imposition of a special Government tax are exceedingly unfortunate to us. The mere statement of facts will impress upon you the injustice of the present schedule of rates.

"The recent raise of freight rates of 25 per cent on the dollar resulted in a very much greater increase of high rates to the interior than it did the low rate to the river points; for illustration, supposing the rate to the river point to be 50 cents per hundred, the increase made it 62½ cents per hundred, and the rate to the interior point, already without any reasonable excuse, being $1 per hundred, is now $1.25 per hundred.

"We insist that this rate should have been a certain per cent on the weight of the freight instead of on the amount of the freight bill.

"The same applies to the 3 per cent on the dollar special Government tax, which has resulted in the interior paying 6 per cent as special tax where the favored point pays only 3 per cent. Not only are the people of the interior made to suffer the loss of their money as compared with their more fortunate neighbor, by the 25 per cent collateral raise of rates and special taxes, but in the whole scale of operation of the railroads an enormous tax is imposed upon the interior people without any recompense to them, and for the avowed purpose of giving more and more advantage to the favored locations.

"This is demonstrated by the fact that in the coast cities and other points, where business competition or other reasons are given for low freight rates, the railroads have been compelled to build and maintain large and expensive

terminals for the convenience and comfort of the people of those places, and to operate these terminals free of cost.

"The building and free operation of these terminals adds enormously to the amount of capital invested and out-of-pocket expenses of railroad traffic, and must be charged to the main-line haul and imposed upon the business done by the people of the interior.

"This alone, we think, if figured correctly by any railroad system, would develop a startling taxation without recompense levied upon the business of the interior.

"Yet another very serious and unreasonable imposition of taxation without recompense results from the fact that the people of the river points are continually clamoring for the Government to spend millions of dollars annually upon the rivers to insure them river transportation, yet at the same time they hold the big stick of threatened river transportation over the railroads to keep the freight rates so low that river traffic can not be revived, and thus the Government is being wheedled into pursuing a policy that robs the interior people of their hard-earned dollars, already overtaxed, and gives it without reason and without practical results to the people of the river cities.

"If I have stated anything in this letter that is not true, please correct me. If I have stated the matter in any way that is unfair to the railroads or the favored points, please call my attention to it.

"Assuming that your committee is an official Government agency, with power to act, we most earnestly urge you to make such a reduction of the freight rates to Jackson as will relieve us of the unjust burden of taxation, from which we get no benefit, and that you raise the rates to the river points will be compelled to pay their just proportion of the 25 per cent collateral raise in rates, the 3 per cent special Government tax, the cost of the magnificent and expensive terminals, and their free service, and the millions of dollars that they induce the Government to spend on the rivers for their special benefit.

"Unless the Government makes this just equalization of the burdens of all the people, we will appeal to the people of the interior to wake up and by some effective means throw off this yoke of taxation without representation, without reason, and without recompense.

"We will appreciate your early statement to us of the authority your committee has in this matter and the course which you intend to pursue."

I submit to this honorable committee that this letter sounds a pathetic note. I know one answer is that in view of the Interstate Commerce Commission's recent decision in the Willamette Valley case (51 I. C. C., 250), wherein rates initiated by the Director General of Railroads were reviewed and discriminations created by his General Order No. 28 increasing freight rates of the country by 25 per cent were ordered removed, that is where Jackson should go to get redress. And doubtless she will go there, but when Jackson's house is set in order, if it can be, what is going to happen on the fringe of the reconstructed-rate territory? Why, her neighbors will have complaints, and in due time Jackson will have another complaint. The recurring petitioner is a leading exhibit of the body of which I have the honor to be a member.

DEFECTS IN RATE STRUCTURE.

Upon analysis we find that the defects in the present rate structure may be grouped under three principal heads, viz: Conflict of rail and water carriers; crosshauling of freight; and differentiating between and properly allocating costs of terminal and line-haul services.

(1) As business proposition, the rail carriers of the United States practically do not admit the right of steamboats on inland waterways or steamships engaged in coastwise traffic, except in rare instances where they are integral parts of given systems, to exist. The practice of reducing rail freight rates to points located on rivers and other waterways below the level of rates maintained to inland points, in order to meet and if possible destroy water competition, is long established and is recognized in the fourth section of the act to regulate commerce as amended June 18, 1910. True, this section provides that once a rate is reduced to meet a water rate it shall not be again raised, except upon proof of changed conditions other than the elimination of water competition. That such proof is not hard to obtain and that such depressed rates have been again raised is a matter of common knowledge.

EXHIBIT No. 1.

I. C. C. Docket 10344—Comparative statement of class rates.

[Tariff authority: To Jackson, C. E. Fulton's I. C. C. 87; to Vicksburg, C. E. Fulton's I. C. C. 87.]

EFFECTIVE PRIOR TO JAN. 1, 1916.

From Chicago, Ill., to—	Classes.									
	1	2	3	4	5	6	A	B	C	D
Jackson, Miss.	$1.18	$0.99	$0.80	$0.67	$0.56	$0.49	$0.41	$0.41½	$0.33–$0.31	.....
Vicksburg, Miss. Natchez, Miss. New Orleans, La.	1.10	.90	.75	.58	.47	.41	.31	.44	.31– .26	.....
Difference.	.08	.09	.05	.09	.09	.08	.10	.02½	.02– .05	.....

EFFECTIVE JAN. 1, 1916.

[Tariff authority: To Jackson, C. E. Fulton's I. C. C. 108; to Vicksburg, C. E. Fulton's I. C. C. 108.]

Jackson, Miss.	$1.26	$1.06	$0.90	$0.76	$0.62	$0.52	$0.44	$0.53	$0.43	$0.37
Vicksburg, Miss. Natchez, Miss. New Orleans, La.	1.10	.90	.75	.58	.47	.41	.31	.44	.31	.26
Difference.	.16	.16	.15	.18	.15	.11	.13	.09	.12	.11

EFFECTIVE JUNE 25, 1918.

[Tariff authority: To Jackson, C. E. Fulton's I. C. C. A-144; to Vicksburg, C. E. Fulton's I. C. C. A-146.]

Jackson, Miss.	$1.57½	$1.32½	$1.12½	$0.95	$0.77½	$0.55	$0.55	$0.66½	$0.54	$0.46½
Vicksburg, Miss. Natchez, Miss. New Orleans, La.	1.37½	1.12½	.94	.72½	.59	.51½	.39	.55	.39	.32½
Difference.	.20	.20	.18½	.23½	.18½	.14½	.16	.11½	.15	.14

EXHIBIT No. 2.

I. C. C. Docket 10344—Comparative statement of class rates.

EFFECTIVE PRIOR TO JAN. 1, 1916.

[Tariff authority: To Jackson, M. P. Washburn's, I. C. C. 113; to Vicksburg, M. P. Washburn's, I. C. C. 119.]

From St. Louis, Mo., to—	Classes.									
	1	2	3	4	5	6	A	B	C	D
Jackson, Miss.	$0.98	$0.84	$0.70	$0.59	$0.49	$0.43	$0.35	$0.35½	$0.27	$0.25
Vicksburg, Miss. Natchez, Miss. New Orleans, La.	.90	.75	.65	.50	.40	.35	.25	.38	.25	.20
Difference.	.08	.09	.05	.09	.09	.08	.10	.02½	.02	.05

EXHIBIT No. 2—Continued.

I. C. C. Docket 10344—Comparative statement of class rates—Continued.

EFFECTIVE JAN. 1, 1916.

[Tariff authority: To Jackson, M. P. Washburn's, I. C. C. 167; to Vicksburg, M. P. Washburn's, I. C. C. 166.]

Jackson, Miss.	$1.15	$0 98	$0.82	$0.69	$0.56	$0.47	$0.40	$0.47	$0.37	$0.31
Vicksburg, Miss. Natchez, Miss. New Orleans, La.	.90	.75	.65	.50	.40	.35	.25	.38	.25	.20
Difference	.25	.23	.17	.19	.16	.12	.15	.09	.12	.11

EFFECTIVE JUNE 25, 1918.

[Tariff authority: To Jackson, M. P. Washburn's, I. C. C. 225; to Vicksburg, M. P. Washburn's, I. C. C. 224.]

Jackson, Miss.	$1.44	$1.22½	$1.02½	$0.86	$0.70	$0.59	$0.50	$0.59	$0.46½	$0.39
Vicksburg, Miss. Natchez, Miss. New Orleans, La.	1.12½	.94	.81½	.62½	.50	.44	.31½	.47½	.31½	.25
Difference	.31½	.28½	.21	.24	.20	.15	.18½	.11½	.15	.14

EXHIBIT No. 3.

I. C. C. Docket 10344—Comparative statement of class rates.

EFFECTIVE PRIOR TO JAN. 1, 1916.

[Tariff authority: To Jackson, M. P. Washburn's, I. C. C. 113; to Vicksburg, M. P. Washburn's, I. C. C. 119.]

From Cairo, Ill., to—	Classes.									
	1	2	3	4	5	6	A	B	C	D
Jackson, Miss.	$0.83	$0.72	$0.60	$0.51	$0.42	$0.37	$0.31	$0.30½	$0.22	$0.20
Vicksburg, Miss. Natchez, Miss. New Orleans, La.	.75	.63	.55	.42	.33	.29	.21	.32	.20	.15
Difference	.08	.09	.05	.09	.09	.08	.10	.01½	.02	.05

EFFECTIVE JAN. 1, 1916.

Tariff authority: To Jackson, M. P. Washburn's, I. C. C. 167; to Vicksburg, M. P. Washburn's, I. C. C. 166.]

Jackson, Miss.	$1.00	$0.86	$0.72	$0.61	$0.49	$0.41	$0.36	$0.42	$0.32	$0.26
Vicksburg, Miss. Natchez, Miss. New Orleans, La.	.75	.63	.55	.42	.33	.29	.21	.32	.20	.15
Difference	.25	.23	.17	.19	.16	.12	.15	.10	.12	.11

EFFECTIVE JUNE 25, 1918.

[Tariff authority: To Jackson, M. P. Washburn's, I. C. C. 225; to Vicksburg, M. P. Washburn's, I. C. C. 224.]

Jackson, Miss.	$1.25	$1.07½	$0.90	$0.76½	$0.61½	$0.51½	$0.45	$0.52½	$0.40	$0.32
Vicksburg, Miss. Natchez, Miss. New Orleans, La.	.94	.79	.69	.52½	.41½	.36½	.26½	.40	.25	.19
Difference	.31	.28½	.21	.24	.20	.15	.18½	.12½	.15	.13

EXHIBIT No. 4.

[I. C. C. Docket 10344.]

Statement showing reshipping rates on grain and grain products from St. Louis, Mo., to Jackson, Vicksburg, and Natchez, Miss., and New Orleans, La.

From St. Louis, Mo., to—	Dec. 31, 1915.	January, 1916.	June 25, 1918.
Jackson	[1] 14½	[2] 20	[3] 25
Vicksburg Natchez New Orleans, La	12	12	15
Difference	2½	8	10

[1] Hall's reshipping tariff No. 9, I. C. C. No. a59.
[2] Hall's reshipping tariff No. 10, I. C. C. a71.
[3] Freight tariff, I. C. C. No. 263.

EXHIBIT No. 5.

[I. C. C. Docket 10344.]

Statement showing reshipping rates on grain and grain products from Cairo, Ill., to Jackson, Vicksburg, Natchez, Miss., and New Orleans, La.

From Cairo, Ill., to—	Dec. 31, 1915.	Jan. 1, 1916.	June 25, 1918.
Jackson, Miss.	[1] 12½	[2] 18	[3] 32½
Vicksburg, Miss Natchez, Miss New Orleans, La	10	10	12½
Difference	2½	8	10

[1] I. C. R. R. tariff 980; I. C. C. 4925.
[2] I. C. R. R. tariff 980 F; I. C. C. 4925, Supplement 5.
[3] I. C. R. R. tariff 980 G; I. C. C. 5204, Supplement 9.

EXHIBIT No. 6.

[I. C. C. Docket 10344.]

Comparative statement of rates on grain and grain products and flour from St. Louis proper.

From St. Louis, Mo., to—	Grain and grain products.	Flour.	Wheat.
Effective prior to Jan. 1, 1916.			
Jackson, Miss.[1]	18½	21	21
Vicksburg, Miss.[2] Natchez, Miss New Orleans, La	16	18	18
Difference	2½	3	5
Effective Jan. 1, 1916.			
Jackson, Miss.[3]	24	25	25
Vicksburg, Miss.[4] Natchez, Miss New Orleans, La	16	18	18
Difference	8	7	7
Effective June 25, 1918.			
Jackson, Miss.[5]	31	31	31
Vicksburg, Miss.[6] Natchez, Miss New Orleans, La	22½	22½	22½
Difference	8½	8½	.....

[1] M. P. Washburn's I. C. C. 113.
[2] M. P. Washburn's I. C. C. 119.
[3] M. P. Washburn's I. C. C. 167.
[4] M. P. Washburn's I. C. C. 166.
[5] M. P. Washburn's I. C. C. 225.
[6] M. P. Washburn's I. C. C. 224.

EXHIBIT No. 7.

[I. C. C. Docket 10344.]

Comparative statement of rates on grain and grain products and flour (Cairo proper rates).

From Cairo, Ill., to—	Grain and grain products.	Flour.	Wheat.
Effective prior to Jan. 1, 1916.			
Jackson, Miss.[1]	16½	19	19
Vicksburg, Miss.[2]	14	14	14
Natchez, Miss			
New Orleans, La			
Difference	2½	5	5
Effective Jan. 1, 1916.			
Jackson, Miss.[3]	22	22	22
Vicksburg, Miss.[4]	14	14	14
Natchez, Miss			
New Orleans, La			
Difference	8	8	8
Effective June 25, 1918.			
Jackson, Miss.[5]	27½	27½	27½
Vicksburg, Miss.[6]	17½	17½	17½
Natchez, Miss			
New Orleans, La			
Difference	10	10	10

[1] M. P. Washburn's I. C. C. 113.
[2] M. P. Washburn's I. C. C. 119.
[3] M. P. Washburn's I. C. C. 167.
[4] M. P. Washburn's I. C. C. 166.
[5] M. P. Washburn's I. C. C. 225.
[6] M. P. Washburn's I. C. C. 224.

EXHIBIT No. 8.

Table of distances.

From Chicago, Ill., to—	Miles.
Jackson, Miss	729
Vicksburg, Miss	754
Natchez, Miss	825
New Orleans, La	920
From St. Louis, Mo.—	
Jackson, Miss	524
Vicksburg, Miss	520
Natchez, Miss	575
New Orleans, La	707
From Cairo, Ill., to—	
Jackson, Miss	374
Vicksburg, Miss	386
Natchez, Miss	463
New Orleans, La	557

I. C. C. Docket No. 10344.

STATEMENT OF MR. KARL LOOS, REPRESENTING THE CALIFORNIA FRUIT GROWERS' EXCHANGE AND THE CALIFORNIA CITRUS LEAGUE; ALSO THE NATIONAL COAL ASSOCIATION.

Mr. Loos. Mr. Chairman and gentlemen, I represent the California Fruit Growers' Exchange, the California Citrus League, and also the National Coal Association.

I want to make a brief statement on behalf of each of these organizations, and will not repeat in any way anything that has been said in the way of reasons for opposition to this proposed legislation, but will simply state the point of view of these two organizations.

The California Fruit Growers' Exchange and Citrus League are organizations of growers and shippers of citrus fruits, principally oranges and lemons, from California. The League represents approximately 95 per cent of the shipments made from California, and some 12,000 fruit growers.

We have never had a rate, so far as I know, that was a departure from the fourth section.

Senator STANLEY. That was, or was not?

Mr. Loos. That was or is a departure from the fourth section. We do not have any now. Our interest in this matter is simply this; that we feel that in order to market our goods we must have frequent service, and we must have low rates. We feel that the loss of water competitive traffic to the transcontinental lines would mean a general raising of our rates. Our traffic is not water-competitive traffic, but we feel that any legislation that would prevent the carriers from meeting water competition and obtaining a portion of that traffic would mean a loss in revenues and an increase in the rates, among which are ours. We feel that the intermountain people would be in the same position; that it would mean an increase in the general level of their rates. However, I am not speaking for them.

Now, that presents the view of those shippers of citrus fruits. I do not care to discuss that further, because I think all the reasons and details of that line of thought have been given by other witnesses, and need not be repeated.

Senator STANLEY. Those fruits are shipped in refrigerator cars?

Mr. Loos. Yes, sir.

Senator STANLEY. Do those cars come back empty?

Mr. Loos. I think there is a large empty movement westbound. It is not a complete empty movement, however. It is not as large an empty movement as the carriers insist upon.

The National Coal Association is an organization composed of some 2,200 coal companies, representinig about 400,000,000 tons of the total production of 525,000,000 tons of the United States. That association is interested in a situation which I believe is a very excellent illustration of the methods of using departures from the fourth section to meet market competition. This situation applies in the south and southwest. The mines of Alabama, particularly—also the mines of western Kentucky—are shipping coal to the Gulf ports, such as New Orleans, Pensacola, and Mobile. At those points there are departures from the fourth section, and at those points there is met the most severe competition from Mexican fuel oil, which is shipped in tank steamers from the oil wells of Mexico. There has been a great loss of tonnage formerly sold by these operators in the coast towns, to the Mexican fuel oil. Manufacturers have been installing facilities for burning fuel oil and replacing the coal tonnage which they formerly consumed. Now, if the carriers were forced to remove their departures from the fourth section from the mines of Alabama and western Kentucky into this territoy, into the Gulf coast cities, it would mean a great loss of tonnnage to them of coal carried, and it would mean a severe loss of the tonnage mar-

keted in these cities now by the southern and southwestern coal mining companies. An illustration of this is the loss of a contract recently by one of the Alabama companies in New Orleans for 100,000 tons annually.

A sugar refinery spent $100,000 to put in facilities for burning fuel oil. If the carriers can continue, however, to depart from the strict fourth section rule, it will be possible for these operators to continue in competition with the fuel oil. It will be no loss, as we see it, to the interior points, where the competition of the fuel oil is not present; and the carriers will be able to continue to carry it and to derive some profit from the traffic in coal from the mines to the Gulf cities.

That represents the market competition and is an illustration which is of great importance and a serious one to the coal industry; but in considering the many things that must be considered in connection with this bill, it is merely offered as an illustration.

That is all I have to say, gentlemen.

The CHAIRMAN. Is there any other witness here who lives a great distance from Washington?

Senator POINDEXTER. Mr. Lyman, Mr. Chairman, represents certain farm organizations and states that he can make his statement in about two minutes.

The CHAIRMAN. Very well.

STATEMENT OF MR. CHARLES A. LYMAN, REPRESENTING THE NATIONAL BOARD OF FARM ORGANIZATIONS, WASHINGTON, D. C.

Mr. LYMAN. Mr. Chairman and gentlemen, I represent the National Board of Farm Organizations, with an office in Washington here. The organizations, Mr. Chairman, which I represent, in appearing before committees, have usually taken up questions of this sort in board meetings. In this case, however, I feel confident that I am justified in coming before this committee in support of the bill which Senator Poindexter has offered, and I come here now as the result of a telegram which I have received from one of our member organizations, which reads as follows:

SPOKANE, WASH., *June 14, 1919.*

CHARLES A. LYMAN,
Secreary, National Board of Farm Organizations,
Woodward Bldg., Washington, D. C.

Three thousand farmers of Washington, Idaho, Oregon, Montana at mass convention in Spokane unanimously adopted resolutions urging Congress to pass Poindexter bill No. 360 making long and short haul clause absolute, and forever eliminating unjust freight discriminations against interior farming sections. Will appreciate your cooperation in urging this matter.

That is signed by Mr. A. A. Elmore, chaiman, and Mr. A. D. Cross, secretary.

I am not going to burden the record with citing any figures. I take it from your remarks, Mr. Chairman, that you have evidence enough to show that there are plenty of discriminations, and that many of these interior points are suffering very unjustly.

I gathered that you wanted to get general ideas as to whether this bill would be in the interest of sound public policy, and I will simply

say that I am sure it would be. The farmers of the country who belong to our organizations—and we have about——

Senator McLEAN (interposing). Just what States do you represent?

Mr. LYMAN. I am secretary of the National Board of Farm Organizations, Senator, and we have 14 organizations, most of them national in scope. The larger organizations are, for instance, the Farmers' National Union, organized in 25 States, and Mr. Elmore and Mr. Cross represent several of them. Another large member organization is the National Milk Producers' Federation, and the Senator from Connecticut will probably be familiar with that.

Senator McLEAN. I wanted to get at whether you were interested because of the communication you have had from these three States, or whether you really represent any concerted, deliberate opinion of the farmers of the country?

Mr. LYMAN. It is my impression that farmers in our organizations will support this bill. I gather that from their general attitude on matters of this sort. The farmers, as a rule, who belong to farm organizations appreciate the effect of unjust discrimination, and we have taken up many matters of this sort before.

Senator McLEAN. That is in the Northwest?

Mr. LYMAN. Yes; in the Northwest and generally. I was going to say that one of our organizations, about which you perhaps know, is the New England Milk Producers' Federation, which belongs to the National Milk Producers' Federation. We also have the Dairyman's League of New York, and all the principal milk-marketing organizations. I did not intend to make as long a statement as this, Mr. Chairman, but I am not at all impressed by any policy which builds up the great cities and makes toward congestion. It seems to me that we have got to go back to more essential things in the life of this Nation, and one of them, of course, is to develop a sound agriculture and to take care of the interior points, and develop them thoroughly and systematically, and it is from that standpoint that I thought it not only proper for me to come, in view of the fact of this request of a member organization, but also I feel that the farmers generally stand for a square deal all through, and it is very obvious that there is nothing of fairness or justice in these discriminatory rates, to say nothing of the economic waste which has been pointed out here, for instance, in hauling wool from interior points in Idaho to California, and then shipping it back here to the terminals in the East.

The CHAIRMAN. The committee understands your position. Is there any other witnesses who would care to be heard? [After informal discussion:] We will meet again Thursday morning, at 10 o'clock.

(Whereupon, at 5.30 o'clock p. m., the committee adjourned until Thursday, June 19, 1919, at 10 o'clock a. m.)

LONG AND SHORT HAUL BY COMMON CARRIERS.

THURSDAY, JUNE 19, 1919.

UNITED STATES SENATE,
COMMITTEE ON INTERSTATE COMMERCE,
Washington, D. C.

The committee met, pursuant to adjournment, at 10 o'clock a. m., Senator Albert B. Cummins (chairman) presiding.

The CHAIRMAN. The committee will be in order. It is the view of the members of the committee that, from now on, we must limit the oral statement to 15 minutes, with permission to file additional briefs if the parties deem it necessary. It is imperative that we finish these hearings to-day, in view of the other engagements of the committee.

Mr. Ballou, you have been waiting here some time. Will you state your name and your connection with or interest in the legislation which is now pending?

STATEMENT OF MR. SIDNEY BALLOU, OF HONOLULU, HAWAII.

Mr. BALLOU. Mr. Chairman and gentlemen, I am appearing in this matter especially on behalf of and at the request of Mr. Henry Flarsheim, of Kansas City, who came here to present a matter in this connection, but who requested me to make the presentation in his behalf.

Senator FERNALD. Is that Mr. Flarsheim, of the firm of Seavey & Flarsheim, of Kansas City?

Mr. BALLOU. Yes, sir; Mr. Flarsheim represented in this matter the Union Sugar Co., of California; the Alameda Sugar Co., of California; the Holly Sugar Co., which has a factory in California; and the California & Hawaiian Sugar Refining Co., which refines cane sugar from Hawaii. I have also been requested to appear on behalf of the American Beet Sugar Co., which has beet-sugar factories in California.

I wish to call the attention of the committee to an illustrative example of departure from the fourth section, for the purpose solely of extending and insuring market competition. That is, it has nothing to do with water competition; it has nothing to do with circuitous routes; it merely insures intense industrial competition, a power which, vested in a tribunal like the Interstate Commerce Commission, it is my contention, is a very valuable power to the community, if rightly exercised, and which should be taken into consideration if you propose to deprive the Interstate Commerce Commission of that power.

The general situation in regard to beet and cane sugar is well known. The beet sugar, being produced in the interior of the country, how far it can move eastward is largely a question of rates, but not a question of the fourth section. However, upon the Pacific coast the situation is much accentuated. There is a heavy production of sugar in California, Utah, Idaho, and on the western belt of the arid region. Added to that is a heavy movement of sugar from the Hawaiian Islands, which is refined in two refineries in San Francisco; and that sugar, if it starts to come East, has first to meet a very long haul, and to meet that haul over country already growing beet sugar; so its market must be rather far east.

Now, for many years the practical limit of that market for those companies—the Pacific coast companies—was Kansas City and the Missouri River territory, into which there was a freight rate of 55 cents, some of which, even then, had to be absorbed to meet the competition from New Orleans. As regards the California & Hawaiian Sugar Co., the limits were absolute and well defined, for the reason that the Hawaiian planters could ship a certain amount to San Francisco for marketing in that territory. They had much more, and the surplus had to be shipped to the Atlantic coast, sold to the eastern refiners, refined in New York and Philadelphia, where it was put in the same melting pot with sugar which was predominantly Cuban, and much of it went back into the interior, to Chicago points.

Now, having that limit substantially established for a number of years, the western beet-sugar companies and the California & Hawaiian Sugar Co. appeared before the Interstate Commerce Commission and asked for a rate into Chicago which should be lower than their rate to Kansas City, and the showing made was simply, first, that they could not possibly get that business without a lower rate; second, that the effect of that lower rate would be to extend the competition at Chicago and give a greater degree of competition there; third, as to Hawaiian sugar, that it would enable Hawaiian sugar to flow in its natural channel from west to east throughout—a large proportion of it; that is, it would enable a larger proportion to go to San Francisco to be refined and go east over the railroads, instead of having to go through the Panama Canal and up to the Atlantic coast and be refined there, and then go west over the railroads to exactly the same points.

There were other propositions involved in this particular case, and it is worthy of note that about half of the applications were denied, the commission not finding a sufficient public reason, for example, for allowing the beet-sugar people to extend, in competition with New Orleans, further toward El Paso, down into the Southwest by any violation of the fourth section.

The carriers also showed that, as a matter of fact, on those southern lines—the Santa Fe, for example—there was a large movement of empty cars eastbound, and that they could afford to do this business at a rate, as we asked, of 46 cents, as against 55 cents into Kansas City.

Upon consideration of those facts, and upon the specific finding that "it is entirely clear that substantially the rate proposed from San Francisco to Chicago is necessitated by the actual competition found at that point, if the western carriers are to bring any sugar into Chicago. The actual competition found at all points between Chicago and the Missouri River is consistently met at each point"—and

when I say "Chicago," that means Chicago points, including the whole of Iowa—and for those reasons, as I say—and I cite it simply as an illustrative example of a very beneficial power to extend market competition—a rate was granted. It is worthy of note that it was a minimum rate; that is, that we did not get the 46-cent rate that we asked for; but the commission said, "We will give you a rate in violation of the fourth section, but upon the showing we find that 48 cents, and not 46 cents, is the proper rate thus to insure this business and competition." That rate was given. That shows the care with which the Interstate Commerce Commission has handled that matter.

The result of that has been that, in the first place, the beet-sugar companies of the West—and I might add that this included factories in Idaho, and upon the showing of factories in Idaho that the commodity was there ready to seek a larger market, if it were afforded, with the railroads cooperating with the shippers in endeavoring to get an enlarged market for the mutual benefit of both—the result of that, as I say, has been, of course, to afford a much larger market for the beet sugar grown on the extreme Pacific coast and in Utah and Nevada, and to enable the California & Hawaii Sugar Co. to materially enlarge its plant, which it proceeded to do, spending $3,000,000 in enlargement, in order to keep a very much larger proportion of Hawaiian sugar moving in that normal direction to San Francisco and Chicago, instead of coming around to the Atlantic coast and going back to Chicago over the rails at the same price.

The CHAIRMAN. The rate on Hawaiian sugar refined in California was the same as the rate on beet sugar produced in California?

Mr. BALLOU. Absolutely; yes, sir.

The CHAIRMAN. And the rate on Utah, Colorado, and Idaho sugar was the same as the rate upon the California sugar?

Mr. BALLOU. The rate on Utah, Colorado, and Idaho sugars is less.

The CHAIRMAN. It was less to Chicago than to Kansas City?

Mr. BALLOU. It is now less to Chicago than to Kansas City.

The CHAIRMAN. I assume that you mean it was necessary to make that rate in order to meet the competition of the Cuban sugar at Chicago?

Mr. BALLOU. The competition at Chicago is based largely on Cuban sugar, added to the sugar refined at New Orleans, and that was specifically so found.

The CHAIRMAN. I think we understand that situation. Are there any inquiries of Mr. Ballou?

Senator POMERENE. Let me ask you just one question. I think every fair-minded man must concede that the intermountain regions have been outrageously treated. I do not think there is any question about that at all. Now, what suggestion have you to make as to the modification of this law so as to relieve the situation and, at the same time, take care of the localities that you are especially interested in?

Mr. BALLOU. I did not intend to testify generally on that subject, but, of course, I am very glad to answer your question, Senator. In my opinion, several things: First, the establishment by law of the recent policy testified as having been adopted by the commission, that any water competition must be actual and active. I say establishing it by law, in spite of the fact that it has been made the policy of the commission, in order to give to the steamship lines that assurance

of which Senator Underwood spoke. I think that would give sufficient assurance to insure water competition. Second, putting the water competition under the control of the Interstate Commerce Commission, so that it could be regulated with the rail competition. Third, the power to fix a minimum rate so as to prevent cutthroat competition of one against the other; I think that would substantially cover it; and, fourth, a showing which is probably included in the proposition that water competition must be active and actual, and not merely potential—a showing, in proof of any violation of the fourth section, that the lower rate is necessary to get the business. That is the only justification for it, and unless that fact is established, as far as you can establish it in a human tribunal, all the evils which have been described here follow, as regards the unnecessary putting of the burden on the intermountain region.

Senator POMERENE. There is one respect in which I think all of you gentlemen on the other side—and I say this with all due respect—approach this from a wrong attitude, and that is this: It seems to me that you look upon water transportation as a common enemy. I have just as much interest in water transportation as I have in rail transportation, and no more; and both of them should be made servants of the public, in my judgment; but every time the question of water competition comes up here, it seems to me it is treated as if it were sort of an outlaw.

Mr. BALLOU. Certainly not by me, or by any of my interests. Quite to the contrary, we depend on water transportation.

The CHAIRMAN. Senator Pomerene did not hear all of Mr. Ballou's testimony.

Senator POMERENE. No; I did not.

The CHAIRMAN. Mr. Ballou testified solely with regard to eastbound sugar from California, Idaho, Utah, etc., to Chicago.

Senator POMERENE. The thing that interests me most in this subject is this: In the first place, I am satisfied in my own mind that a positive evil exists, so far as the transportation problem is concerned, in the intermountain regions and elsewhere; and I have not heard anybody even suggest that it was right. A good many people write me on the subject and say, "We are not treated that way in the East, and we will take our chances." I am only attempting to give the substance of their position. Now, that is a strange sort of position to take, from a legislative standpoint, it seems to me. I can understand how there might be injustices arise, if you were going to have a hard and fast rule; but it seems to me that the traffic people, with their knowledge of this subject, ought to be able to get together and devise some rule which would work justice toward all sections of the country.

Mr. BALLOU. And it does to me, too.

Senator POMERENE. If there is anything that can be done along that line, that is what I would like to see.

Mr. BALLOU. The Hawaiian interests, which I primarily represent, are extremely dependent on water competition both ways. We are interested at this moment in trying to get shipments of merchandise from the East to Hawaii by water through the Panama Canal, instead of sending them overland, as we do. We are very much interested in water competition.

The CHAIRMAN. Mr. Ballou has treated the matter solely from the standpoint of market competition on sugar.

Mr. BALLOU. Yes; that was the only point I raised.

The CHAIRMAN. That is all, Mr. Ballou. Is there any other witness in the room who desires to be heard?

Mr. FRANK LYON. Yes; Mr. Chairman, I would like to be heard.

The CHAIRMAN. Very well, sir.

STATEMENT OF MR. FRANK LYON, WASHINGTON, D. C.

Mr. LYON. Mr. Chairman, it may be well to put in the record who I am and whom I represent.

The CHAIRMAN. Yes; please do so.

Mr. LYON. I am a practicing lawyer and practice exclusively in interstate commerce work. I have never had any court work of consequence.

The CHAIRMAN. You were formerly connected with the Interstate Commerce Commission, were you not?

Mr. LYON. Yes, sir. I entered railway service in about 1885, and about 1887 I went into the service of the Interstate Commerce Commission, and I remained there as a stenographer until 1899, and then I went out and practiced law, in general practice, for six or seven years; and then I returned to the Commission as a special examiner to Commissioner Lane, now Secretary Lane, and while I was with the commission I heard a great many of these transcontinental cases, sat as examiner and took testimony in Reno, Nev., and Phoenix, Ariz., and appeared as attorney for the commission in the Ten Per Cent Advance Rate case, and then resigned from the commission in 1912, and appeared in the Five Per Cent Advanced Rate case as attorney for the Pittsburgh Coal Co., and have practiced rather for important corporations before the commission since that time. In the course of that practice I have had occasion to appear for the American-Hawaiian Steamship Co. and the Luckenbach Steamship Co. in the transcontinental litigation.

Application had been made to the commission under the fourth section to permit further violations of the fourth section, and the water lines, although I advised them that they had no rights before the Interstate Commerce Commission, and that I thought the Interstate Commerce Commission had no interest in sustaining them, or in keeping them afloat; that their interest, under the law, was in the railroads, yet I felt it would be well for them to appear before the commission and make a statement of the facts as to the rail and water situation between the Atlantic and the Pacific coasts; and I appeared before the commission, and we had our traffic people sworn and gave the commission the benefit of such facts as we could in that litigation.

I appear here to-day, although I am regularly employed by the Luckenbach Steamship Co., much more in the capacity of simply a citizen interested in this subject; but I am employed by the Luckenbach Steamship Co., and, remotely, they are concerned in this question. That is, if Congress adopts a policy of developing the water lines, instead of developing the railroad lines, as I claim it has done in the past, the Luckenbach Steamship Co. will reap the benefit of that policy.

Now, we have heard a great deal here that seemed to me extraneous to the subject, but, as it appears to me, the real subject has been very prominently brought forward, I think, by Senator Underwood, and probably by Senator Poindexter, in some questions, and that is as to who shall declare the policy of this country—as to whether it shall be declared by the Interstate Commerce Commission or by Congress?

Now, my teaching as a lawyer has taught me that Congress can not delegate the power of fixing public policy. I have always been taught that that is a matter for Congress to decide, and that some administrative body should then carry out the policy which Congress declares. But Congress has no policy in regard to water lines in competition with rail lines, and as you heard Commissioner Clark testify the other day, and as all these other witnesses have testified, they think the question of whether a water line shall be operated between the ports of this country should be determined by the Interstate Commerce Commission.

Now, speaking for the Luckenbach Steamship Co., although I am primarily speaking 99 per cent as a citizen, I think that is a mistake. I think if Congress thinks it is desirable to have water transportation, the water lines ought to know beforehand what they may expect; but if a company organizes to operate a boat between New York and Savannah, or between New York and San Francisco, it has no reason to believe that it may continue in that business because the railroad lines can go to the commission and say: "This boat line has started up between New York and Savannah, and they are making a certain line of low rates, and in order that we may retain the business which the boat line is now taking from us we ask the commission to allow us to make rates, not upon a reasonable basis, but upon any basis between what is generally known and termed—and indefinitely termed—the 'out-of-pocket' cost, which is simply payment for the fuel and the locomotive and the wages of the crew, generally speaking—anything between that cost and a reasonable rate, in order to get the business," and the only object in asking the commission to do that, the only purpose of it, is to turn that business over to the railroads. If the commission does not accomplish that purpose it does not function. The railroads do not employ lawyers to go before the commission in idleness. They employ them to go there to prevent transportation by water.

I am not competent to advise Congress what it ought to do, but I do have an opinion as to what I think is good public policy. I think that is bad public policy. I think that because I believe in the development of the water lines. I do not know why; I could not tell you why I believe in that. It is just a feeling on my part that it is a good thing for the country. I may be mistaken. But, certainly, the two things can not coexist. If there are a million tons of freight to be moved from New York to San Francisco, they can not be moved both ways, it must move one way or the other. I do not mean, of course, all of it, but I mean that the same pound of freight can not move both ways. You have got to adopt some policy in regard to it.

In appearing for these water lines before the commission we protested against the railroads being allowed to violate the fourth section—and, understand, they were already violating it. This new application was a prayer to permit the railroads to charge still less at

the ports. The boat lines, after the opening of the Panama Canal, had become much more active on transcontinental business; and my clients thought that was what the canal was built for—in order that water transportation should increase; but, as soon as that increase started, the railroads applied to the commission—as they had a perfect right to do, under the law—for authority to violate the fourth section to a greater extent than they had been violating it, because they found that the extent to which they had been violating it would not control the business—and their purpose was to control the business.

So we protested against that application; at least we said to the commission "if you do this we can not transport it, that is all." Of course it is for the commission to say, under the law—and I am not here criticising the commission at all; I think the commission has decided the thing according to the law as it is laid down; I think its duties are to develop the rail lines of this country. I think there is no duty laid upon the commission by Congress to develop the water lines of this country. I think the purpose is all the other way; so the commission decided those cases in the interest of the railroads—I do not mean any improper interest, but the only interest they have is in the railroads.

The CHAIRMAN. Let me ask you a question there, because this is the viewpoint that is really controlling. I think——

Mr. LYON (interposing). Yes; I think this is the meat of the situation.

The CHAIRMAN. Did the Interstate Commerce Commission ever indicate what proportion of the coast to coast business ought to be carried by water and what proportion ought to be carried by rail? In other words, have they ever attempted to draw the line of division between the two agencies?

Mr. LYON. Never in specific terms. I was just coming to that exact point in this case, Senator. I asked every witness—and, of course, we could not ask the commissioners—but I asked every railroad witness, "What proportion of the business do you think you ought to take, fifty-fifty, ninety-nine to one, or one to ninety-nine?" and I said, "No matter what answer you may make, why?" I think the railroads have always had the logic of the situation. Before 1887, before 1910, they really competed. They have taken 100 per cent of the business wherever they could get it. If they did not take 100 per cent of the business, it was because they did not find it profitable, and that was the only reason—and certainly if I were representing the rail lines that is exactly the policy I would pursue, and I think they have pursued the right policy. Up to 1910 they pursued the same policy. They took every pound of freight that the traffic manager of the railroad thought would earn them any net revenue, and when the Interstate Commerce Commission came to apply the same law, without the slightest qualification by Congress that I can read in the act of 1910—I know the commission does not take this view of it, but I read their decisions, and I think it is their duty to take exactly the same view of it that the railroads did before 1887 and before 1910. That is the view I would take of it if I were a commissioner. Why should they take any other view? Congress has not intimated that they should take any other view, except in your debates, but not in the act.

Senator POMERENE. Except indirectly, that we built the canal and went to that expense.

Mr. LYON. Yes.

Senator POMERENE. That would indicate there was a desire to do something in the way of helping water transportation.

Mr. LYON. I say except by inference from the debates prior to 1910, and I have often referred to that, but the answer has been that those who were in favor of water transportation were in the minority, and we are governed by the law as finally enacted. I have had no answer to make to that. But Congress has never declared any policy and never has shown the slightest indication of an intention to favor the water lines. Its hand has always been raised against the water lines, as we look at it. And I think there is no more efficient way of destroying the water lines than by violations of the fourth section, to meet water competition.

Now, I can point to the history of this thing. Where have the water lines gone that were in the coast and river traffic since about 1860, when the railroads began to develop in this country. We all know that they do not exist to-day. There are a few Atlantic coastwise lines, many of which are dominated by the railroads. One of the largest of them is dominated by the Southern Pacific Railway.

Senator POINDEXTER. That is part of its transcontinental system, is it not?

Mr. LYON. Yes; it is a part of their transcontinental system; but to illustrate, this result is inevitable: There are two means of transportation; you can take either one you want, but the water line has no business except at the terminals. Now, not only has the commission, in carrying out this policy—and I think it is a policy—not only do the water lines have to meet the competition between the points at which there is navigable water, but, taking this table, for instance, as the United States, New York is over there and San Francisco is here [indicating] and not only do the Luckenbach Steamship Co. and the American-Hawaiian Steamship Co., speaking for those two large concerns, have to meet the competition of the rail lines from New York to San Francisco, but the commission says, following what the railroads have done for 50 years anyway, according to the testimony that has been here before you, presented by Mr. Lincoln and Mr. Barlow, that they may take the Atlantic Ocean and transport it, for railroad purposes, to Kansas City, and then practice violations of the fourth section from the Missouri River. I am not talking about the recent decision. I think they have recently limited it to the Missouri River. But let us take St. Louis. They say that a manufacturer in St. Louis has a right to have a railroad operating from St. Louis to San Francisco make such a rate, in violation of the fourth section—that is, charging a higher rate at the interior point—as will enable him to take the business away from the manufacturer located at Brooklyn.

That is what Mr. Lincoln said about the drug man in Detroit. The Detroit drug man wants to sell to the San Francisco man the same as the Brooklyn and New York men, and therefore the railroads should be permitted to make a rate from St. Louis that will violate the fourth section, and the sole and only purpose is to take the business away from the man who is unfortunate enough to be located on the sea, where he is supposed to have the advantage of water lines. My in-

terest in that is that it takes the business away from the water lines; but I think it is a great public question whether you should take the business away from the manufacturer located upon the coast. There is a division of thought as to what should be done, but I think that is a question of public policy.

Senator POMERENE. That is to say, it is a legalized discrimination against the central parts of the country?

Mr. LYON. I think the discrimination is against the coast points. I think the man who may be located upon the coast has a right to use the ocean for his transportation.

Senator POINDEXTER. You meant, Senator, in specific cases of discrimination as against the central portion of the country?

Senator POMERENE. Yes; I was speaking generally.

Mr. LYON. In Jersey City, for instance, they fabricate steel and make various things that the Pacific coast wants, and the manufacturer in Jersey City has his stuff right at the port there, and he can ship it either way—by water or by rail; but as the commission has construed the law, following in the footsteps of the railroads, that is not the competition which the man with the fabricating plant at Jersey City has to meet at all. He has to meet the competition of the man at Gary, St. Louis, or Kansas City, because they hold that those interior cities must be allowed to compete with the man on the coast—and this, to my mind, is the most vicious part of the whole trouble, not only the fourth section, but the whole trouble that we are in in this country, and it is right in the teeth of what Commissioner Clark holds, for whom I have the greatest respect, and with whom I have most pleasant personal relations; but I think it is absolutely unsound; that is, that the railroad system of this country shall be constantly changing itself to meet the commercial necessities, the misfortunes, the inefficiencies of manufacturers. I think that is fundamentally unsound. My opinion is that commercial conditions should be made to fit the railroad situation; not the railroad situation changed from day to day to meet the unfortunate situation of a manufacturer like this man at Detroit, or at Chicago, or St. Louis.

Senator FERNALD. You believe it is unfair to the man at Brooklyn or Jersey City to have competition at Gary in the steel business?

Mr. LYON. Not commercial competition.

Senator FERNALD. No; rail competition?

Mr. LYON. I say that when he goes to the public and says, "I am unable, because I have not the brains, the intelligence, or the location to sell the man in San Francisco on my own basis, and therefore I ask the public to shrink the reasonable return upon a public utility in order that I may dispose of my goods," in my opinion, that is unsound. I have a definition somewhere here in my papers of what I call "market competition." You have heard a great deal of talk about it. Everybody worships it. Nearly every witness who has been on the stand has told you the great advantage of "market competition;" but, mark my words, they never give the market competition to the consumer—rarely ever. It is always to the manufacturer, to the man who can employ traffic managers and lawyers to get these things. In the East you have competition with Chicago and St. Louis on business to the coast, but when you get to Reno or Spokane and a man says, "I would like to consume in Reno in competition with San Francisco," it does not work.

Senator POINDEXTER. The only reason Spokane and Reno have been mentioned so often is because they have had cases in court. As a matter of fact, there are tens of thousands of places in the United States similarly discriminated against?

Mr. LYON. Yes. The whole structure is based upon market competition, Mr. Clark says, and to disturb it would produce a revolution. A great many revolutions have been good in their effects. We had one in 1776, and we came pretty nearly having one in the Civil War, but we have lived through the influences of those things. I have lived through the abolition of the rebate system in this country. When the act was passed in 1903, I did not see such a terrible calamity ahead. They adjusted themselves to the situation.

Senator POINDEXTER. We have a practical object lesson in the entire intermountain and coast country. For very nearly a year the fourth section has been in effect and it has not hurt anybody at all. It has benefited those points that were previously discriminated against, and has not hurt the other points.

Mr. LYON. I think if it did hurt them, that would be no reason why it should not be done. The question is: Is it right? I do not think a proper adjustment of this matter would bring about the terrible results which some seem to fear, because I have seen the rebate system in this country abolished—that is, open rebates, at any rate. Of course they have various means of getting around it.

Senator POMERENE. Do you approve this Poindexter bill as it now is?

Mr. LYON. The only question I am in doubt about is rail competition. I have spoken of water competition. Where there are two railroads between two points, it is a question of policy upon which my mind is not quite made up.

Senator POINDEXTER. We have six transcontinental rail lines coming into Spokane, and some of them are short lines and some long lines, and they operate without violating the fourth section, and they all get along. Now, why can that not be done anywhere? They are doing it now everywhere, as a matter of fact. If one of them violates the fourth section, they all violate it. If it is enforced against one of them, it is enforced against all of them. They are all on a relative basis.

Mr. LYON. It resolves itself into a question of public policy. My own views which, I think, are different from Senator Pomerene's, judging from the bill which he introduced and other matters, rather dispose me toward one railroad system. I think that the man in the Kentucky mountains up there should be taken care of by the man in New York, so far as our railroad systems are concerned. I think the men in the interior Rocky Mountain country should be taken care of, if necessary, by a public utility that is in a more populous district. That is my idea; that it is good for the country to develop all sections of it, even if you have to take, as you do under the postal system, something from the rich and give it to those who are not so well to do. I think that is the way transportation should be developed.

Now, believing that I may differ with those who think that each railroad should stand upon its own bottom and get all the business it can, and if it be the short line, get 100 per cent of the business. I think that is a question for Congress to decide in railroad competition.

I have listened a good deal to the statements here, and I have been more or less converted to an absolute fourth section, even as applied to rail lines, because there are many things in favor of it. The commission recognizes the necessity for it when the long carrier is only 15 per cent longer; if one carrier is more than 115 per cent of the short line, the commission does not allow a violation of the fourth section, and they are forced to comply with it or go out of business. Now, this would simply extend it from 115 per cent to 100 per cent.

Senator POINDEXTER. Why not leave it to the operation of the natural economic laws, instead of the uncertain artificial adjustment of an administrative board, as to just what percentage of length of line should entitle them to violate the fourth section or to make money or not? Let the natural conditions take care of that.

Mr. LYON. Of course, you know the Interstate Commerce Commission does not make rates—and it is approved by the Supreme Court—on the basis that most of us thought a reasonable rate was constructed—that is, on the basis of the service rendered by the carrier. A reasonable rate, as defined by the commission, and as approved by the Supreme Court, must not only take into consideration the service which the shipper is using at the time, but also the indirect lines. That was in the Cincinnati-Southern case and in the Northern Pacific case; that you must take into consideration all the indirect lines, as well. If that were not so, the weak lines would go out of business. Now, that goes to the other question about the fourth section being rigidly enforced.

The CHAIRMAN. And that presents the only difficulty I have ever had in my mind with regard to the fourth section; that is, competition between the rail lines.

Mr. LYON. Yes; as long as we have private ownership, Senator—and that may be indefinite; I do not know—it is rather hard to answer the claims of a private corporation that was incorporated for the purpose of making money, by saying that they can not compete at a more distant point.

The CHAIRMAN. I believe, myself, that there must be a great process of consolidation. I think the end to be accomplished is consolidation into comparatively few systems rather than into one system; but that the solution must be reached in that way I have no doubt whatever.

Mr. LYON. You have that situation to meet. People invest their money in railroads for making money; they do not invest in railroads for public purposes; their object is to make money; and if they can get some of the business at the more distant points, and make something on it, they are satisfied. Now, if you say they can not do that, then, undoubtedly, as has been suggested here by the chairman, I think if Congress will take care of that situation and allow these carriers to make up in some other way any deficiency which they have on this long distance traffic, of course the man who has his money invested in the railroads has no complaint. I have never seen a way to do that, but you may have a way. Then you are driven to the question which your Honor has asked so many witnesses, which I think is unanswerable. If that is once done, and you give the investor a reasonable return upon what he has invested in the railroads, he certainly can not claim that it is morally right and should be made legally right to charge a higher rate to the more dis-

tant point, because his interest has ceased; his sole interest is to make money out of it. If you take care of his sole interest, then it is a question of public policy for Congress to decide. If you have provided that, you have only one answer; that it is not right to charge less for the long distance.

The CHAIRMAN. I understand you think it would be bad policy to give the commission authority to fix a minimum rate?

Mr. LYON. I have some cards here with notations on them. The only thing the commission fixes under the fourth section is a minimum rate. They do not fix maximum rates.

The CHAIRMAN. They fix a minimum rate to the terminal point?

Mr. LYON. Yes.

The CHAIRMAN. It is a maximum rate for the water carrier?

Mr. LYON. Yes.

The CHAIRMAN. But you do not think the commission should be given authority to fix a minimum rate for the water carrier?

Mr. LYON. No. If I were speaking for a big transportation company, like the Luckenbach Steamship Co. I would be for regulation of all transportation; but speaking from a public point of view, I think it would be the most disastrous thing in the world to regulate water rates. I believe in public highways being left open, and let a man with a rowboat or a 10,000-ton steamer go to any port in the world he wants to and haul freight for any rate he can get.

The CHAIRMAN. The effect of fixing a minimum rate on water carriers would be to have the railroads put their rates up?

Mr. LYON. Yes. I advise these big concerns always to adopt regulation, because the little man is obliged to give way under it. It is true in railroading and true in everything else. There has been more consolidation of railroads since 1887, and there has been more regulation. The public interest is to allow everybody to transport over a highway that is open to the public.

Senator FERNALD. At the lowest rate he can possibly make?

Mr. LYON. Yes. I think if a man wants to transport a few barrels of cement by rowboat down to Alexandria it is against the public interest to require him to file a tariff with the Interstate Commerce Commission.

The CHAIRMAN. In view of the conditions under which the water carriers operate, there is no way of standardizing them at all.

Mr. LYON. Absolutely not. I really hope to see the day when a young man whose father may leave him $10,000 or $20,000 can go out and buy a boat and put it on the Ohio River or the Mississippi River or the Great Lakes and conduct his business as he sees fit. Out in my county a man buys a truck and puts it on the highway and hauls for whomsoever he chooses, for whatever he cares to charge and can get. If he charges too much, there is a competitor right behind him, although there are big concerns doing the same thing as well.

Now, we have heard a great deal about the peculiarity of the southeastern section. All of us are acquainted with the geography of the country. Just bear in mind this picture, if you will, east of the Mississippi River—the northeastern section of the country and the southeastern section of the country. The two are divided by the Ohio and the Potomac Rivers, running substantially east and west. In the southeastern section you have the Atlantic Ocean on the east; in the northeastern section you have the Atlantic Ocean on the east also. In

the southern section you have the Gulf of Mexico on the south; along the northern border you have the Great Lakes and the Erie Canal. On the western border you have the Mississippi River, probably a little favorable to the southeastern section, because it is nearer the mouth of the river, and the two are divided by the Ohio River. You have streams running from all these rivers into the interior sections in both parts of the country. I think a fair mind would readily see that there is no difference in the water transportation characteristics of the two sections. It is only a difference that has been made by different railroad treatment, as it occurs to me. You can float boats on those rivers that run up through Indiana—we cross them going to Chicago—just as well as you can on these little streams that run up from the Atlantic coast. I think a fetish has been adopted for generations. The wise men in the south decided that they should have what they call "trade centers." They took Atlanta, for instance, which is not on water, and that was the most favored rate center in the south and everybody had to pay tribute to Atlanta. The commission could not stand for that, so they defeated it, and now they stand upon the water problem, and I think they have a good deal to stand upon in that, because that is the policy of the country. It is necessary for the railroads to make those rates in order to take the business away from the water lines, and that is what they make them for.

Now, I wish to say one other thing here about this——

Senator POMERENE. Do I understand you to take the position that it is right to make a rate so that one corporation or one company can take freight from another company or corporation?

Mr. LYON. Under the fourth section I think that is the implication of Congress. Why do you give permission to violate the fourth section?

Senator POMERENE. I am not discussing the merits of the fourth section, or its policy. I am asking an abstract question.

Mr. LYON. No; I think it is wrong, but I say I think Congress has differed with me.

Senator POINDEXTER. He says he thinks it is right, as the law stands, but he is opposed to it in principle, as I understand him.

Mr. LYON. Yes.

Senator POINDEXTER. And, for that reason, he thinks this section should be amended?

Mr. LYON. Yes. Now, if Mr. Lincoln, representing New York, and Mr. Barlow, representing Chicago, and Mr. Wettrick, representing Seattle, and Mr. Morgan, representing Galveston and Houston—if those gentlemen could secure from the boat lines what the railroads are now giving them, why would they appear before this committee? What would be their object, if the water lines would tender them what the railroads do? Why should they have any choice? The only answer is that we know that they get something out of the railroads that my clients can not confer upon them, and they are before this committee for the purpose of retaining that, and for that purpose only. Those men who appeared here are paid enormous salaries—some of them.

Senator POINDEXTER. And if this bill passes they will lose their jobs, will they not?

Mr. LYON. There is a plenty left in the act to regulate commerce to keep traffic managers and traffic lawyers busy for a hundred years.

Senator POINDEXTER. There will not be any occasion for their services?

Mr. LYON. Mr. Wettrick comes here from Seattle—a gentleman for whom I have the highest respect—and what does he appear here for? Is it to ask you to give him the same thing that the Luckenbach Steamship Co. can give him? No. He knows he can not get it, and that is what it is all about. There railroads confer things upon communities. Why do not the railroads desist from that, it is asked. Well, after a while you come to that conservative spirit. You continue a situation for a long time, and then you try to upset a condition that has existed for some time, and you produce trouble; and, therefore, the railroads, rather than to do that, throw the burden upon the Interstate Commerce Commission as much as possible. It is really interesting to see how the railroads dodge injuring any of these large centers. They feel that there is a public body which has been endowed by Congress with authority to pass upon these questions, and it is rather interesting to watch how they will let the Interstate Commerce Commission take the burden of them. I think the interests of the different parties should be borne in mind by you in considering that matter. They talk a great deal about their interest in railroad revenue—these people. They are not interested in railroad revenue. They are interested in getting these railroads to haul their freight for less than a reasonable rate. That is their purpose, and that is what they appear here for.

Now, we have heard here a number of contradictions. One witness gets on the stand—a gentleman from Boston—and he says, "If this is enforced it will ruin the water lines." And another witness says, "You will ruin the railroad lines if you enforce it." Now, you can not do both. There is just so much tonnage to move, and it will move via one route or the other. Mr. Chandler testified about a water line losing money and having to go out of business. Why should the railroads object to that? It is inconceivable.

Now, the railroads make rates on commodities that never move by water, and which violate the fourth section. Many of those things the water lines never touch, but the railroads do not separate one from the other. Instead of meeting specific water competition, it is covered under a general system of class rates. To show you how they discriminate against water lines, in the making of steel rates on transcontinental business the commission allowed a rate of 55 cents from Chicago to the Pacific coast, violating the fourth section, with rates probably as high as $1 at Reno, and with 65 cents at Pittsburgh, and 75 cents from this fabricating plant at Brooklyn or Jersey City. In other words, there was the water at Jersey City to transport it to the consumer at San Francisco, but the railroads came forward and the commission permitted the Gary plant at Chicago to have a 55-cent rate, to compete with the fabricating plant at Jersey City, while the fabricating plant at Jersey City, where the water competition actually existed, paid 75 cents. In other words, the further you get away from the competition the lower the rate violating the fourth section.

Now, I have tried not to appear in the guise of a critic of the commission here. That is in strict harmony with what has been done for a generation; in other words, the railroads do not meet competition where it is actually existing. They say, "We can not afford to transport freight at that rate from the water, but we can afford to transport it from Chicago, St. Louis, and Kansas City," and they are right about it, because it is 1,000 miles less haul from Chicago than from New York, and if they could bodily take up the fabricating plant at Jersey City and put it out in Chicago, they could haul the traffic with 1,000 miles less transportation.

Now, in that situation what becomes of the water lines? The only effect of it is to take the business away from the water lines. Maine, for instance, does not get the benefit of being on the water. The benefit is transferred to Chicago—for the interior—by this artificial method of meeting the natural conditions at the water points. If a man establishes an industry at a port and makes himself accessible to water transportation, the railroads claim that they have a right and that it is their duty to give the same rate, or whatever rate may be necessary, so long as it is above the out-of-pocket cost, to enable a competing industry to exist anywhere between the coasts, and they carry that as far as Pueblo, Colo., on iron and steel products.

Senator POINDEXTER. That is on westbound traffic?

Mr. LYON. Yes. Now, in making these rates, the steamship companies from New York want to move the steel produced at Pittsburgh to the Pacific coast. They used to pay, in order to get hold of that traffic, 16½ cents, as I recall the local rate, on steel from Pittsburgh to New York. Now, that same railroad—the Pennsylvania—if the Santa Fe Railroad wanted to haul that traffic to San Francisco, would deliver it to the Santa Fe at Chicago, and they would charge the Santa Fe 9½ cents for a 500-mile haul. It was practically a 500-mile haul in each case.

Senator STANLEY. Are not most of the rates on this steel traffic based upon a scale with Pittsburgh as the center of the zone?

Mr. LYON. Yes; Pittsburgh is the biggest producer of steel.

Senator STANLEY. And they charge for the haul as if the traffic originated at Pittsburgh?

Mr. LYON. Yes.

Senator STANLEY. No matter whether it originates at Gary or at Birmingham or where?

Mr. LYON. Yes, sir. Pittsburgh is generally considered the place that makes the rate on steel products, and generally the price is the Pittsburgh price, less transportation or plus transportation. We might argue that indefinitely, as to whether it is actually carried out.

Senator STANLEY. What I am driving at is this: There are two things that vitally affect the rates on steel products, or did four or five years ago. One was the water competition, and the other was, for some reason, this artificial arrangement of rates on steel products.

Mr. LYON. Yes; that gets into the old question of the steel rates.

The CHAIRMAN. Is that all, Mr. Lyon?

Mr. LYON. Yes. I will ask the privilege of filing a brief. I thought I was appearing for an interest that had not appeared before.

The CHAIRMAN. I think you have given the committee a new point of view—one that had not been discussed before.

Mr. LYON. I am sorry Senator Underwood was not here. I wanted to answer his question. I think he struck at the real heart of this thing—that if we are to have any water lines in this country, that Congress, not the Interstate Commerce Commission, must itself declare a policy under which a man would feel justified in investing in a boat, and not have it left either to the arbitrary discretion of the railroads or to an administrative body to what extent he shall carry on transportation.

The CHAIRMAN. I think the committee is very much impressed with that view.

Now, Mr. Campbell, please state your name and your relation to the subject under inquiry.

STATEMENT OF MR. J. B. CAMPBELL, SECRETARY AND ATTORNEY, MERCHANTS' ASSOCIATION, SPOKANE, WASH.

Mr. CAMPBELL. Mr. Chairman and gentlemen, I am secretary of and attorney for the Spokane Merchants' Association, and also appear for the Spokane Chamber of Commerce, the Intermediate Rate Association, which is a voluntary association of all of the intermountain sections; also as a representative of the railroad Commission of Nevada; also representing the Public Service Commission of Wyoming, the Railroad Commission of Montana, the State Corporation Commission of New Mexico, and the Reno Commercial Club.

Mr. Shaughnessy, a member of the Railroad Commission of Nevada, has written a very carefully prepared brief on this matter, and has asked me to have it included in the record, if we may.

The CHAIRMAN. Without objection, it will be received. In that connection, Mr. Thom has prepared a brief—I do not know which side he is on, but I may infer—and I want to put that in the record, too, if there is no objection.

(The two documents above referred to will be found reproduced in full at the end of this day's proceedings.)

Mr. CAMPBELL. Gentlemen, I am going to be as brief as possible, but this is a very important subject to the intermountain section, and I want to be able to cover it fully if I can.

I want to impress upon this committee that this is a great public question; that it goes to the very foundations of our form of Government; that it is a question of public policy which involves taxation. I claim that a freight rate is just as much a tax as any other form of tax, and that power of taxation has been farmed out to individuals; so it behooves Congress to be very careful in dealing with it to see that the power of taxation is not abused.

Now, I want to specifically call attention to the form of opposition to this bill. There has not been a man to appear before this committee who was not appearing for some interest that is benefiting by the law as it now stands, with possibly one exception, and that is the man who represented the fruit-growers of California, who says "We do not suffer from this law; there are no fourth section violations, so far as our product is concerned, and consequently, we are against the bill."

If I were in that strategic position and if the intermountain country was in that same position, the intermountain section would not be here advocating this bill. It has always been a mystery to me, as

Mr. Lyon points out, to understand what business the water cities have here. They come here asking you to perpetuate something which they are getting from the railroads, which they could not get in any other way. If, as Mr. Lyon said, they could get it from the water carriers, they would not be here; but they are here asking you, because they are on the water and have two forms of transportation, to perpetuate an unnatural advantage which they get by using the water carriers as a club upon the railroads. If you have read Senator Poindexter's report on this bill at the last session—and I am sure you have—you will find in there quotations from Maj. Gen. Black, and Mr. Redfield, of the Department of Commerce, in which they say that it is a regretable fact that they find that the water cities are not interested in water transportation—and that is true; we all know that is true.

I cited here before you last year the testimony of Mr. Jacobs, of San Francisco, in which he testified that at one time the merchants of San Francisco put on a boat line for the purpose of getting preferential rail rates; that it cost them $350,000 to do it, out of their pockets, but that they saved millions of dollars by the preferential rate they were able, by that boat line, to compel the railroads to give them.

Now, the difficulty with the situation to-day, gentlemen, is that rates are not made on a scientific basis. We all know that. We, of the general public, used to be very much shocked at the old statement of the railroads that they got "all that the traffic would bear"; but the same system is in vogue to-day, stated just a little differently. They get all that the influences will permit them to get. Now, just take the National Industrial Traffic League; our organization is a member of that—and what is the purpose of that traffic league? The purpose of that traffic league is to bring influence to bear on rates, and when Mr. Barlow appeared here for the National Industrial Traffic League, he appeared for the purpose of wielding an influence upon the rate making of this country—and I wish to say that Mr. Barlow, in appearing here, did not represent the Spokane Merchants' Association, although we are a member of the organization that he represented.

I say we are dealing with a public policy, and if that policy is right, then let Congress say that the policy of charging a lesser rate at a competitive point, and making it up out of the interior, is a good policy and must be applied. If you adopt that as a policy, and say that in all cases where a less rate is charged to a competitive point than is charged to an interior point, it can be made up on the interior rates, I want to tell you that the opposition to this bill will fade like the dew before the morning sun. Do you mean to tell me that if Chicago were charged more on western apples, western fruit, western canned salmon, western lumber—which she must have—than Pittsburgh or New York, that Chicago would be here opposing this bill? Do you imagine for a moment if Pittsburgh had to pay more for Washington fir than New York, that she would be here fighting this bill?

The fact of the matter is that as the law now stands, the railroads have in their power to create discriminations which are the vilest that can possibly happen to any community, and the Interstate Commerce Commission will allow it to be done. It is done in this way:

Under the law as it now stands, violations of the fourth section can only be granted or permitted when applied for by the railroads. Now, they apply for leave to violate the fourth section on westbound traffic; but I want to say—and I can not be contradicted—that the reason they do not apply for a violation of the fourth section on eastbound traffic is because the interests of the east are stronger than the railroads. Can anyone deny that? Is not that true?

They do not violate the fourth section on eastbound traffic, although Commissioner Clark said yesterday that the conditions were exactly the same; that the controlling water competition that they have on the ocean westbound has the same influence on eastbound traffic—the Atlantic Ocean.

Senator POINDEXTER. You mean on eastbound traffic, so far as the point of destination is concerned?

Mr. CAMPBELL. Yes.

Senator POINDEXTER. But, so far as the point of origin is concerned, it is a different proposition?

Mr. CAMPBELL. Yes; I will come to that in just a moment. Commissioner Clark said that the influences were the same—and they are—but it has been in vain that I have argued before the Interstate Commerce Commission for the last 12 years at least that, the conditions being the same, they should not charge the intermediate points in the West such high rates on westbound traffic unless they would apply the same principle to eastbound traffic.

Now, if it is true, as is argued here, that the rates at the terminal points, if applied at the intermediate points, would take away some of the profit of the railroads, which would have to be made up somewhere else, then I say that the intermountain section gets it coming and going, because we must make up, by higher rates at the intermediate points in the West, the lower rates to the terminal points in the West; and, in addition to that, we have to make up the losses incurred upon the eastbound traffic.

Gov. Gooding, of Idaho, you will remember, put in a statement here showing what these intermountain railroads were making; and to-day those railroads are making a surplus which is going back into the Government coffers; and there has never been a time since 1910 when these western railroads were not making money, with the possible exception of the Milwaukee.

Senator POINDEXTER. Is it not true that that surplus going into the Government Treasury, the same as any tax that is collected by the Government, is collected entirely from the people of the intermountain country?

Mr. CAMPBELL. Absolutely so; and I want to tell you, as I have said before, and I say it again, that if this thing were not covered up by the fact that it is levied by an individual, and the people do not understand that it is a tax, the revolution of 1776 would look like 30 cents, as compared to this, if the people realized that they were being taxed to pay the interest of some other section.

Now, right on this point of the eastbound traffic, the roads not having the power, because the interests are stronger than they are, to levy this tax on the eastbound traffic, they get some of it by again going back into the interior in the West and again levying upon the intermountain section a tribute, just as in the case of wool; and while we are on the subject of that wool, let me say

something: Commissioner Clark referred to me and said he understood I had taken this matter up a year ago. When the Intermountain Case was finally decided March 15, 1918, on westbound rates, I went to the commission and I said, "Here are these eastbound rates that are out of line. Is it going to be necessary for us to start a proceeding to have that discrimination removed?" "Oh, no," the commission said, "it is not necessary. You just forget that, Mr. Campbell, and we will see that it is fixed up." "But," they added, "you had better go to the Railroad Administration." I went to the Railroad Administration, and they told me the same thing. They said, "Forget it," and I did forget it; and I was absolutely amazed when I came down here and found that wool situation was the same as it was before; and to-day the Railroad Administration is blaming it upon the commission, and the commission is blaming it upon the Railroad Administration. And, right here, let me tell you that is not all. There is in existence to-day, all over the United States, so-called competitive low rates, and one of the highest officials in the Railroad Administration now told me that if he were permitted to raise those unduly low rates, it would give to the Railroad Administration at least $150,000,000, and that it would not hurt anyone; and I said, "Why don't you do it?" I happen to be on the district freight traffic committee of Portland, and I have met this proposition many times. He said, "Mr. Campbell, the interests would holler so loudly that we would not dare to do it."

Senator POINDEXTER. Who was it that said that? You need not give his name, but his position?

Mr. CAMPBELL. One of the highest officials in the Railroad Administration to-day. We have seen Portland and Seattle so-called water-compelled rates, though they do not violate the fourth section, but they are controlling upon the traffic of this country—so-called water-competitive rates, and there has not been a boat between Seattle and Portland in 30 years, and in order to compete with 177 miles of railroad they would have to sail 700 miles.

Now, I have been at this thing ever since 1904, and I want to tell you we are not criticizing the Interstate Commerce Commission—although I do claim the right, as a citizen, to criticize them, if I want to—but I say, that the law as it now stands is absolutely a crime. Spokane has been 30 years in this fight. She has spent over $80,000 in that 30 years, and not until March 15, 1918, did she get relief that was any relief at all. In 1906 Spokane started the first case of the kind before the Interstate Commerce Commission. It was nine years before that case was finally determined. It was four years and over before the commission ever rendered a decision. It then dragged its weary length through the Commerce Court to the United States Supreme Court, and it was nine years before a decision was finally rendered, and that decision never went into effect in its entirety. That was the percentage decision which Mr. Clark referred to as giving to the intermountain section some relief. It took nine years to make that decision, and then before it could go into effect the railroads came in, under this law as it now stands, and said, "Conditions have changed. The canal is open and that decision should not go into effect," and after about nine months of fighting, it did not go into effect. They changed it and increased the discrimination against the intermountain country.

Senator POINDEXTER. In other words, the intermountain people had been taxed their share to construct the Panama Canal, and then, when it was finished, they were taxed again because it was in operation?

Mr. CAMPBELL. Absolutely. When conditions had changed again in 1915, by the closing of the canal, we went before the commission and said, "Now the conditions have changed." The northern railroads went before the commission in an informal way and said, "We think this discrimination should be removed," but the powerful influence of the Southern Pacific Railroad was so potent that the northern lines were compelled to go in and fight that thing, and they did fight us for a period of two years, so that two years after the commission had taken judicial notice of the fact that there was no water competition the intermountain section paid upward of $25,000,000 of extra money during that time before it could be removed.

Senator POINDEXTER. How much?

Mr. CAMPBELL. $25,000,000 is a very conservative estimate?

Senator POMERENE. Mr. Campbell, have you got or can you prepare without too much trouble a statement showing what the cost per ton mile is to the intermountain region; the same as to the water points; and the same as to the general traffic of the country?

Mr. CAMPBELL. Senator, I demanded in this case before the commission repeatedly that the railroads be compelled to show what their out-of-pocket was. There is no one can show that but the railroads and the Interstate Commerce Commission.

Senator POMERENE. Has the Interstate Commerce Commission any details on that?

Mr. CAMPBELL. They can obtain them. Now, let me say to you that I insisted on that so strongly that the Chairman—he is not living now—became incensed with me and made me desist, and refused to require the railroads to show that cost, forsooth it would cost the railroads too much money.

Senator POINDEXTER. Let me say that there is some testimony on that subject of a very thorough and minute character, in so far as it goes, in the hearings on this bill in the last Congress—the testimony of Mr. Shaugnessy.

Mr. CAMPBELL. And you will find it in that brief, I think, as carefully analyzed as it could be done. The difficulty, Senator, is that that information is in the hands of the railroads. Although the commission allowed so-called "out-of-pocket" rates, or little more than out of pocket, they did not compel the railroads to show what that "out-of-pocket" was; and all we could do was to argue inferentially from a brief which one of the railroad attorneys had filed in the Southeastern Case, where there was an assumption that the out-of-pocket was so much. We took that out-of-pocket and applied the terminal rates to Spokane, and it gave something like 300 per cent of that out-of-pocket which they said they could not afford to apply at Spokane.

Now, if this policy, I say, is right—if it is right and proper to pick the Atlantic Ocean up and put it down at Chicago, or further than that, at Pueblo, Colo.—then I say it must be right to pick the Pacific Ocean up and lay it down at Omaha, and if you do that that will do away with the discriminations on the eastbound rates.

The CHAIRMAN. They will all be water rates, then?

Mr. CAMPBELL. Yes; that is the fallacy of the system—but I tell you that there is not any real system; it is a matter of the railroads being called upon by the manufacturers and big business to equalize market competition; and every day before that Portland committee, of which I am a member, some manufacturer comes in and says, "I have got to have a lower rate because it costs me more money to do business than it does John Jones." Just take that steel proposition that has been mentioned here. The Interstate Commerce Commission permitted the Atlantic Ocean to be moved out to Pueblo, Colo., and that made a rate of 40 cents per hundred from Pueblo, Colo., to San Francisco, which moved right through Reno; but if it was stopped at Reno, 286 miles shorter haul, they would charge 75 cents—and then, mind you, the consumer did not get the benefit of it. Mr. Heron, representing the Colorado Fuel & Iron Co., went upon the witness stand in these very cases before the Interstate Commerce Commission, and said, "We have got to have a rate of 40 cents to San Francisco in order to compete with Pittsburgh," and then he testified, in answer to question asked by me, and very reluctantly—but I finally got it out of him—that no matter if the San Francisco man did buy the steel from him, he charged the Pittsburgh rate, and he justified that by saying that it cost him $7 a ton more to manufacture than it did Pittsburgh.

I wish the Senator from Connecticut were here. He has asked practically every witness this question: "If Spokane is given a reasonable rate, how can she complain?" I had a game of dominoes the other night with a friend of mine, and we were using a cribbage-board to tally. I was going down the outside, about 25 points ahead of him. He quietly took his pin and moved it along on the inside, and advanced himself about 25 points ahead of me. I said, "That is not right." He said, "Well, your position has not been changed; I have not taken anything from you." And it was in vain that I insisted that while he had taken nothing from me, he had added something to himself to which he had no right, and to my hurt and injury.

Now, there is not any such thing as a reasonable rate. You go before the Interstate Commerce Commission to-day upon an allegation that your rate is unreasonable, and what kind of proof do you have to put in? You are required to put in testimony comparing your rate with some other rate. Now, where can you find any comparison so fair as to compare the rates over the same line in the same direction and over the same rails? I sometimes think this controversy should be called "The Tale of Two Cities." Here is the Pacific Ocean, over here and Seattle located here [illustrating]. On this corner here is Spokane. Suppose Seattle, instead of being located upon the ocean, with a railroad and the Lincoln Highway, were located on the Lincoln Highway only, and suppose Seattle came down to you and said, "We are taxed the same as Spokane for maintaining the Lincoln Highway, and if our taxes are not lowered, we will refuse to pay any taxes whatever and will use the railroads." There is not a man here who would stand for that thing one single moment; and yet that is exactly what they are doing in this controversy.

The CHAIRMAN. That is one of the things which people find it hard to understand. There is no reason in the world, logically speaking, why the railroads should charge as much to Spokane as to Portland or to Seattle.

Mr. CAMPBELL. Absolutely not.

The CHAIRMAN. And that has involved a great deal of confusion in this subject in the minds of the people, because it seems that you are willing that the railroads shall be permitted to charge as much for a distance of 450 or 500 miles less.

Mr. CAMPBELL. I could only answer that, Senator, by saying that that shows the liberality of mind of the short-haul fellows. I will ask you in all fairness under the present structure what you think of this situation: Here are two cities—one with a natural advantage upon the water, the other with another natural advantage. Take Salt Lake City, for instance—a shorter haul to the point of supply by 800 miles. Now, when the advocates of this bill are willing to pay as much as the more distant points, the advantage of that position is taken away. But I think you are worried altogether too much about these circuitous lines of railroad. To my mind it is very simple. In the first place, I say that if there is a line between that corner and this corner, and another one here [illustrating], that if there is competition at that point and the long railroad wants to meet it, it is up to him to decide whether or not he is going to compete with the other line under the disadvantage which he suffers; and I say that it is no hardship upon him to require him to apply the short line mileage over his line as far as it goes; and then, if he wants to compete, to blanket it the rest of the way. The difficulty is this: These things are all viewed from point to point; you do not take the entire line into consideration. If you will do that, the things that are troubling you will disappear.

Now I happen to know something about how freight was distributed and sent over the short lines during the war. Committees got together and the traffic was routed over the short line, and it was surprising to find how one line was long at one point and short at the other, and when that division was finally made by routing over the short line every railroad practically got its share of the traffic, and it hurt no one. The difficulty is this: Under the present system one railroad can make 25 per cent—and it ought not to be permitted to do it—and another line may go broke. You should take the earnings of the short line—all over a certain fixed percentage, which should not be over 6 per cent—and that surplus should be used for maintaining the weak lines. I want to tell you that we forget that we are dealing with a governmental function. We forget that it is just as much a necessity, to my mind, for a community to be supplied with rail transportation as it is with a highway; and yet we permit railroads to be built and then afterwards abandoned. We have before the committee in Portland to-day a most pitiful case; a railroad that was built up by one of the strong lines under a separate corporation. It was first taken over by the Government, and then let go, and then the corporation refused to help it out; and now there are millions of dollars of money invested along that line, but no railroad service. It is abandoned. Now I say those people have a right to have that railroad service, and the tax which is collected by these private corporations to maintain the service should not go into the coffers of the stock-

holders of the very strong lines, but should be taken by the Government and used for the purpose of sustaining the weak lines. If you will do that, if you will group these railroads, the strong and the weak together, this difficulty which is in your mind will absolutely disappear.

The CHAIRMAN. I want to express my entire concurrence in the view you have just stated. That is the only remedy.

Mr. CAMPBELL. I think so. Let me say, in regard to Senator Pomerene's bill, that I think I wrote Senator Pomerene—no; I think it was Congressman Esch. The bills are similar, are they not?

Senator POMERENE. Yes; the same.

Mr. CAMPBELL. There is one difficulty in that bill. Let me say, first, that the giving to the commission of the right to make a minimum rate would not affect this question at all, because the commission to-day, under the fourth section, has the right to make and does make minimum rates. I think the rate-making power, being a taxation power and purely a governmental function, should not be farmed out to individuals, and that the Interstate Commerce Commission should be given the entire rate-making power. I do not think it goes quite far enough, if I may be pardoned for the suggestion.

Senator POINDEXTER. Have you any other points on this long-and-short haul bill?

Mr. CAMPBELL. I want to make just one or two references to some of the testimony. The empty-car movement was referrred to here the other day, and I want to say that the evidence in this case shows that the empty-car movement is up to Spokane; that there is practically no empty-car movement west of Spokane; that a great many of the empty cars that are hauled are used for the purpose of moving the wheat from the inland empire to the Pacific coast; and yet in adjusting this matter Spokane is absolutely refused the benefit of empty-car movement, and it is all given to the Pacific coast.

Senator POMERENE. You mean that is by order of the director general's office?

Mr. CAMPBELL. No; by the Interstate Commerce Commission. In this very case that empty-car movement was one of the excuses they gave for making a lower rate to the Pacific coast than to the intermediate points—that they might as well fill these empty cars up.

Now, I do not know that there is anything further that I care to say, unless there are some questions that you gentlemen wish to ask me. I still reiterate that I want you to be careful to look into the opposition to this bill. As I say, it is an opposition which is arrayed along with the railroads for keeping things as they are.

Senator POMERENE. If I may take just a moment, I wish to refer to the strongest argument I have seen in favor of this bill. It comes from a traffic manager who was very much opposed to it. I am referring to the Poindexter bill. When it was suggested to him that if the industrial sections of Ohio were treated as are the intermountain regions, they would be here complaining: the answer was, in substance, that they were not so much concerned about the intermountain region, and while it was possible that Ohio could be subjected to this same treatment, they were quite willing to take their chances with the Interstate Commerce Commission. I regard that as the strongest argument in favor of the bill that I have heard.

The CHAIRMAN. That is one of the things which people find it hard to understand. There is no reason in the world, logically speaking, why the railroads should charge as much to Spokane as to Portland or to Seattle.

Mr. CAMPBELL. Absolutely not.

The CHAIRMAN. And that has involved a great deal of confusion in this subject in the minds of the people, because it seems that you are willing that the railroads shall be permitted to charge as much for a distance of 450 or 500 miles less.

Mr. CAMPBELL. I could only answer that, Senator, by saying that that shows the liberality of mind of the short-haul fellows. I will ask you in all fairness under the present structure what you think of this situation: Here are two cities—one with a natural advantage upon the water, the other with another natural advantage. Take Salt Lake City, for instance—a shorter haul to the point of supply by 800 miles. Now, when the advocates of this bill are willing to pay as much as the more distant points, the advantage of that position is taken away. But I think you are worried altogether too much about these circuitous lines of railroad. To my mind it is very simple. In the first place, I say that if there is a line between that corner and this corner, and another one here [illustrating], that if there is competition at that point and the long railroad wants to meet it, it is up to him to decide whether or not he is going to compete with the other line under the disadvantage which he suffers; and I say that it is no hardship upon him to require him to apply the short line mileage over his line as far as it goes; and then, if he wants to compete, to blanket it the rest of the way. The difficulty is this: These things are all viewed from point to point; you do not take the entire line into consideration. If you will do that, the things that are troubling you will disappear.

Now I happen to know something about how freight was distributed and sent over the short lines during the war. Committees got together and the traffic was routed over the short line, and it was surprising to find how one line was long at one point and short at the other, and when that division was finally made by routing over the short line every railroad practically got its share of the traffic, and it hurt no one. The difficulty is this: Under the present system one railroad can make 25 per cent—and it ought not to be permitted to do it—and another line may go broke. You should take the earnings of the short line—all over a certain fixed percentage, which should not be over 6 per cent—and that surplus should be used for maintaining the weak lines. I want to tell you that we forget that we are dealing with a governmental function. We forget that it is just as much a necessity, to my mind, for a community to be supplied with rail transportation as it is with a highway; and yet we permit railroads to be built and then afterwards abandoned. We have before the committee in Portland to-day a most pitiful case; a railroad that was built up by one of the strong lines under a separate corporation. It was first taken over by the Government, and then let go, and then the corporation refused to help it out; and now there are millions of dollars of money invested along that line, but no railroad service. It is abandoned. Now I say those people have a right to have that railroad service, and the tax which is collected by these private corporations to maintain the service should not go into the coffers of the stock-

holders of the very strong lines, but should be taken by the Government and used for the purpose of sustaining the weak lines. If you will do that, if you will group these railroads, the strong and the weak together, this difficulty which is in your mind will absolutely disappear.

The CHAIRMAN. I want to express my entire concurrence in the view you have just stated. That is the only remedy.

Mr. CAMPBELL. I think so. Let me say, in regard to Senator Pomerene's bill, that I think I wrote Senator Pomerene—no; I think it was Congressman Esch. The bills are similar, are they not?

Senator POMERENE. Yes; the same.

Mr. CAMPBELL. There is one difficulty in that bill. Let me say, first, that the giving to the commission of the right to make a minimum rate would not affect this question at all, because the commission to-day, under the fourth section, has the right to make and does make minimum rates. I think the rate-making power, being a taxation power and purely a governmental function, should not be farmed out to individuals, and that the Interstate Commerce Commission should be given the entire rate-making power. I do not think it goes quite far enough, if I may be pardoned for the suggestion.

Senator POINDEXTER. Have you any other points on this long-and-short haul bill?

Mr. CAMPBELL. I want to make just one or two references to some of the testimony. The empty-car movement was referrred to here the other day, and I want to say that the evidence in this case shows that the empty-car movement is up to Spokane; that there is practically no empty-car movement west of Spokane; that a great many of the empty cars that are hauled are used for the purpose of moving the wheat from the inland empire to the Pacific coast; and yet in adjusting this matter Spokane is absolutely refused the benefit of empty-car movement, and it is all given to the Pacific coast.

Senator POMERENE. You mean that is by order of the director general's office?

Mr. CAMPBELL. No; by the Interstate Commerce Commission. In this very case that empty-car movement was one of the excuses they gave for making a lower rate to the Pacific coast than to the intermediate points—that they might as well fill these empty cars up.

Now, I do not know that there is anything further that I care to say, unless there are some questions that you gentlemen wish to ask me. I still reiterate that I want you to be careful to look into the opposition to this bill. As I say, it is an opposition which is arrayed along with the railroads for keeping things as they are.

Senator POMERENE. If I may take just a moment, I wish to refer to the strongest argument I have seen in favor of this bill. It comes from a traffic manager who was very much opposed to it. I am referring to the Poindexter bill. When it was suggested to him that if the industrial sections of Ohio were treated as are the intermountain regions, they would be here complaining; the answer was, in substance, that they were not so much concerned about the intermountain region, and while it was possible that Ohio could be subjected to this same treatment, they were quite willing to take their chances with the Interstate Commerce Commission. I regard that as the strongest argument in favor of the bill that I have heard.

The CHAIRMAN. That is one of the things which people find it hard to understand. There is no reason in the world, logically speaking, why the railroads should charge as much to Spokane as to Portland or to Seattle.

Mr. CAMPBELL. Absolutely not.

The CHAIRMAN. And that has involved a great deal of confusion in this subject in the minds of the people, because it seems that you are willing that the railroads shall be permitted to charge as much for a distance of 450 or 500 miles less.

Mr. CAMPBELL. I could only answer that, Senator, by saying that that shows the liberality of mind of the short-haul fellows. I will ask you in all fairness under the present structure what you think of this situation: Here are two cities—one with a natural advantage upon the water, the other with another natural advantage. Take Salt Lake City, for instance—a shorter haul to the point of supply by 800 miles. Now, when the advocates of this bill are willing to pay as much as the more distant points, the advantage of that position is taken away. But I think you are worried altogether too much about these circuitous lines of railroad. To my mind it is very simple. In the first place, I say that if there is a line between that corner and this corner, and another one here [illustrating], that if there is competition at that point and the long railroad wants to meet it, it is up to him to decide whether or not he is going to compete with the other line under the disadvantage which he suffers; and I say that it is no hardship upon him to require him to apply the short line mileage over his line as far as it goes; and then, if he wants to compete, to blanket it the rest of the way. The difficulty is this: These things are all viewed from point to point; you do not take the entire line into consideration. If you will do that, the things that are troubling you will disappear.

Now I happen to know something about how freight was distributed and sent over the short lines during the war. Committees got together and the traffic was routed over the short line, and it was surprising to find how one line was long at one point and short at the other, and when that division was finally made by routing over the short line every railroad practically got its share of the traffic, and it hurt no one. The difficulty is this: Under the present system one railroad can make 25 per cent—and it ought not to be permitted to do it—and another line may go broke. You should take the earnings of the short line—all over a certain fixed percentage, which should not be over 6 per cent—and that surplus should be used for maintaining the weak lines. I want to tell you that we forget that we are dealing with a governmental function. We forget that it is just as much a necessity, to my mind, for a community to be supplied with rail transportation as it is with a highway; and yet we permit railroads to be built and then afterwards abandoned. We have before the committee in Portland to-day a most pitiful case; a railroad that was built up by one of the strong lines under a separate corporation. It was first taken over by the Government, and then let go, and then the corporation refused to help it out; and now there are millions of dollars of money invested along that line, but no railroad service. It is abandoned. Now I say those people have a right to have that railroad service, and the tax which is collected by these private corporations to maintain the service should not go into the coffers of the stock-

holders of the very strong lines, but should be taken by the Government and used for the purpose of sustaining the weak lines. If you will do that, if you will group these railroads, the strong and the weak together, this difficulty which is in your mind will absolutely disappear.

The CHAIRMAN. I want to express my entire concurrence in the view you have just stated. That is the only remedy.

Mr. CAMPBELL. I think so. Let me say, in regard to Senator Pomerene's bill, that I think I wrote Senator Pomerene—no; I think it was Congressman Esch. The bills are similar, are they not?

Senator POMERENE. Yes; the same.

Mr. CAMPBELL. There is one difficulty in that bill. Let me say, first, that the giving to the commission of the right to make a minimum rate would not affect this question at all, because the commission to-day, under the fourth section, has the right to make and does make minimum rates. I think the rate-making power, being a taxation power and purely a governmental function, should not be farmed out to individuals, and that the Interstate Commerce Commission should be given the entire rate-making power. I do not think it goes quite far enough, if I may be pardoned for the suggestion.

Senator POINDEXTER. Have you any other points on this long-and-short haul bill?

Mr. CAMPBELL. I want to make just one or two references to some of the testimony. The empty-car movement was referrred to here the other day, and I want to say that the evidence in this case shows that the empty-car movement is up to Spokane; that there is practically no empty-car movement west of Spokane; that a great many of the empty cars that are hauled are used for the purpose of moving the wheat from the inland empire to the Pacific coast; and yet in adjusting this matter Spokane is absolutely refused the benefit of empty-car movement, and it is all given to the Pacific coast.

Senator POMERENE. You mean that is by order of the director general's office?

Mr. CAMPBELL. No; by the Interstate Commerce Commission. In this very case that empty-car movement was one of the excuses they gave for making a lower rate to the Pacific coast than to the intermediate points—that they might as well fill these empty cars up.

Now, I do not know that there is anything further that I care to say, unless there are some questions that you gentlemen wish to ask me. I still reiterate that I want you to be careful to look into the opposition to this bill. As I say, it is an opposition which is arrayed along with the railroads for keeping things as they are.

Senator POMERENE. If I may take just a moment, I wish to refer to the strongest argument I have seen in favor of this bill. It comes from a traffic manager who was very much opposed to it. I am referring to the Poindexter bill. When it was suggested to him that if the industrial sections of Ohio were treated as are the intermountain regions, they would be here complaining; the answer was, in substance, that they were not so much concerned about the intermountain region, and while it was possible that Ohio could be subjected to this same treatment, they were quite willing to take their chances with the Interstate Commerce Commission. I regard that as the strongest argument in favor of the bill that I have heard.

The CHAIRMAN. That is one of the things which people find it hard to understand. There is no reason in the world, logically speaking, why the railroads should charge as much to Spokane as to Portland or to Seattle.

Mr. CAMPBELL. Absolutely not.

The CHAIRMAN. And that has involved a great deal of confusion in this subject in the minds of the people, because it seems that you are willing that the railroads shall be permitted to charge as much for a distance of 450 or 500 miles less.

Mr. CAMPBELL. I could only answer that, Senator, by saying that that shows the liberality of mind of the short-haul fellows. I will ask you in all fairness under the present structure what you think of this situation: Here are two cities—one with a natural advantage upon the water, the other with another natural advantage. Take Salt Lake City, for instance—a shorter haul to the point of supply by 800 miles. Now, when the advocates of this bill are willing to pay as much as the more distant points, the advantage of that position is taken away. But I think you are worried altogether too much about these circuitous lines of railroad. To my mind it is very simple. In the first place, I say that if there is a line between that corner and this corner, and another one here [illustrating], that if there is competition at that point and the long railroad wants to meet it, it is up to him to decide whether or not he is going to compete with the other line under the disadvantage which he suffers; and I say that it is no hardship upon him to require him to apply the short line mileage over his line as far as it goes; and then, if he wants to compete, to blanket it the rest of the way. The difficulty is this: These things are all viewed from point to point; you do not take the entire line into consideration. If you will do that, the things that are troubling you will disappear.

Now I happen to know something about how freight was distributed and sent over the short lines during the war. Committees got together and the traffic was routed over the short line, and it was surprising to find how one line was long at one point and short at the other, and when that division was finally made by routing over the short line every railroad practically got its share of the traffic, and it hurt no one. The difficulty is this: Under the present system one railroad can make 25 per cent—and it ought not to be permitted to do it—and another line may go broke. You should take the earnings of the short line—all over a certain fixed percentage, which should not be over 6 per cent—and that surplus should be used for maintaining the weak lines. I want to tell you that we forget that we are dealing with a governmental function. We forget that it is just as much a necessity, to my mind, for a community to be supplied with rail transportation as it is with a highway; and yet we permit railroads to be built and then afterwards abandoned. We have before the committee in Portland to-day a most pitiful case; a railroad that was built up by one of the strong lines under a separate corporation. It was first taken over by the Government, and then let go, and then the corporation refused to help it out; and now there are millions of dollars of money invested along that line, but no railroad service. It is abandoned. Now I say those people have a right to have that railroad service, and the tax which is collected by these private corporations to maintain the service should not go into the coffers of the stock-

holders of the very strong lines, but should be taken by the Government and used for the purpose of sustaining the weak lines. If you will do that, if you will group these railroads, the strong and the weak together, this difficulty which is in your mind will absolutely disappear.

The CHAIRMAN. I want to express my entire concurrence in the view you have just stated. That is the only remedy.

Mr. CAMPBELL. I think so. Let me say, in regard to Senator Pomerene's bill, that I think I wrote Senator Pomerene—no; I think it was Congressman Esch. The bills are similar, are they not?

Senator POMERENE. Yes; the same.

Mr. CAMPBELL. There is one difficulty in that bill. Let me say, first, that the giving to the commission of the right to make a minimum rate would not affect this question at all, because the commission to-day, under the fourth section, has the right to make and does make minimum rates. I think the rate-making power, being a taxation power and purely a governmental function, should not be farmed out to individuals, and that the Interstate Commerce Commission should be given the entire rate-making power. I do not think it goes quite far enough, if I may be pardoned for the suggestion.

Senator POINDEXTER. Have you any other points on this long-and-short haul bill?

Mr. CAMPBELL. I want to make just one or two references to some of the testimony. The empty-car movement was referrred to here the other day, and I want to say that the evidence in this case shows that the empty-car movement is up to Spokane; that there is practically no empty-car movement west of Spokane; that a great many of the empty cars that are hauled are used for the purpose of moving the wheat from the inland empire to the Pacific coast; and yet in adjusting this matter Spokane is absolutely refused the benefit of empty-car movement, and it is all given to the Pacific coast.

Senator POMERENE. You mean that is by order of the director general's office?

Mr. CAMPBELL. No; by the Interstate Commerce Commission. In this very case that empty-car movement was one of the excuses they gave for making a lower rate to the Pacific coast than to the intermediate points—that they might as well fill these empty cars up.

Now, I do not know that there is anything further that I care to say, unless there are some questions that you gentlemen wish to ask me. I still reiterate that I want you to be careful to look into the opposition to this bill. As I say, it is an opposition which is arrayed along with the railroads for keeping things as they are.

Senator POMERENE. If I may take just a moment, I wish to refer to the strongest argument I have seen in favor of this bill. It comes from a traffic manager who was very much opposed to it. I am referring to the Poindexter bill. When it was suggested to him that if the industrial sections of Ohio were treated as are the intermountain regions, they would be here complaining; the answer was, in substance, that they were not so much concerned about the intermountain region, and while it was possible that Ohio could be subjected to this same treatment, they were quite willing to take their chances with the Interstate Commerce Commission. I regard that as the strongest argument in favor of the bill that I have heard.

Senator POINDEXTER. There is a gentleman here who says he would like to make a 5-minute statement.

The CHAIRMAN. Very well.

Senator POINDEXTER. I do not know which side he is on.

STATEMENT OF MR. S. A. THOMPSON, SECRETARY-TREASURER, NATIONAL RIVERS AND HARBORS CONGRESS, WASHINGTON, D. C.

Mr. THOMPSON. Mr. Chairman and gentlemen, I am secretary and treasurer of the National Rivers and Harbors Congress, with an office in Washington, D. C. My purpose in asking the privilege of making a 5-minute statement is merely to present the interests of the waterways for which I have been fighting during most of my adult life.

It seems to me that the time has come, owing to the situation created by the war, for the Congress of the United States to go to the foundation of the transportation question and fix the development of our resources, the share that we shall obtain in foreign trade, and the whole future industrial and commercial situation of the country, by securing justice in the matter of rail rates, by protecting and developing and bringing about the use of the waterways, and especially by complete coordination between rail and water—and I may say, in passing, that it is only a little time in the future when, in my judgment, you will be brought to consider the question of coordination with transportation on the highways by motor trucks.

In 1912 I visited the Panama Canal. In talking with Gen. Goethals, I asked him if it was to him any mystery why boat transportation had left the inland waterways of the United States. He said, "Mystery? No, indeed. You may remember that for a time I was in charge of improvements on the Tennessee River, and during the time I was stationed there, three different times I saw steamboat lines form, develop a good business, then gradually become unremunerative, and then tie up at the banks, and later disappear. I made an investigation and I found in each case that the railroads were to blame. It is to me no mystery at all. It seems to me it can be no mystery to anyone when practically for most of the time during the past 50 years the railroads have been cutting the rates to any point they pleased, between two points where there was water competition, at the same time charging two or three times, in some case for an equal distance on their own lines to an inland point. It seems to me that a man would hardly have good business sense who would attempt to develop a water transportation line under those conditions."

There is no question about that, I think, in the mind of anyone who has studied the situation; and I can not recall any report made by committee of Congress in which railroad competition was not given as the fundamental cause for the destruction of the water transportation lines.

Now, one must have the Creator of the universe change the physical laws by which the universe is governed before it will be otherwise than true that movement through water takes less power than movement on land, by any possible process; and, therefore, tra

portation by water is essentially cheaper than transportation on land, either by rail or by motor truck.

Looking to the future of the country, it is advisable that we have the cheapest form of transportation, just as far as that can economically be developed. I yield to no one in my loathing of the atrocities committed by the armies of the Huns, but I believe that the man is wise who learns from anybody, and he who is willing to learn even from his enemies is perhaps the wisest of all; and it was to me a great surprise when I found from official figures published by the Department of Commerce, quoted from official figures of the German Government that for 20 years, ending with 1913, the foreign commerce of Germany exceeded the foreign commerce of the United States, and the excess was getting greater every year. Now, divide those 20 years into four 5-year periods. During the first 5-year period the average excess of the foreign commerce of Germany over the foreign commerce of the United States was $207,000,000. During the second 5-year period it was $221,000,000; during the third 5-year period it was $400,000,000, and during the fourth 5-year period it was $712,000,000. In the single year 1912 the excess was no less than $853,000,000.

Now, in those figures, gentlemen, there is nothing for the United States to be proud of, even if the two countries were equal in other respects; but we have 17 times the area and 3 times the population of Germany. I find the explanation for that in the fact that in Germany, more than anywhere else in the world, the three methods of transportation—road, rail, and water—are developed and coordinated. I find in the great 12-volume report of the British Royal Commission on Canals and Inland Navigation that there was a manufacturer located in the Midland district of England, 85 miles from a first-class harbor and 105 miles by rail from London, who swore that not only had he been beaten in the markets of the world, which he once dominated, but he was actually driven from the markets of the capital of his own country by manufacturers in Frankfurt and Mannheim, Germany, 500 miles farther removed, but with water transportation all the way.

Senator POINDEXTER. Do you know whether there is a strict enforcement of the long-and-short-haul clause, or a law similar to it, in Germany? I am informed by reliable authority that there is.

Mr. THOMPSON. Yes, there is; not by law so much as by administrative action. It is invariably the fundamental idea that equal service by rail shall be given at an equal charge, whether to a water point or an inland point.

Senator POINDEXTER. That is what I understood.

The CHAIRMAN. The German Government has protected its waterways?

Mr. THOMPSON. Yes.

The CHAIRMAN. By declining to permit the railroads to carry traffic at less rates than water lines?

Mr. THOMPSON. In France, in 1869, after prolonged debate, it was formerly declared that it was the intention and policy of the Government to foster and develop both rail and water transportation, in order that they might serve the public adequately. I hope the Congress of the United States in this year will make a similar declaration.

Mr. A. P. Thom, who was chosen by the railroad interests of the United States to present their case to the special committee headed by the late Senator Newlands, stated that experts had made a study of the development of traffic and the amount of equipment that had been required to handle that traffic during the preceding 20 years. They plotted it in what is called the graphic system, a line of a certain length representing a certain quantity or amount; and then by projecting that curve in some way for 10 years forward, they got an idea as to what would be necessary for the railroads of the United States in the way of equipment in order to meet the traffic development which would presumably come within that time. There was some surprise when Mr. James J. Hill said it would take $5,500,000,000. That was in 1907. Two years later he said he had increased his estimate by 50 per cent. Mr. A. P. Thom said the result of their investigation was that the railroads would have to invest $1,500,000,000 a year for 10 years—$15,000,000,000—almost equal to the amount already actually invested, in order to develop the railroads to a point where they could adequately take care of the business that would be expected in this country of ours.

I say now, gentlemen, with all due deference to the Interstate Commerce Commission, and agreeing that under the law, as it exists, they have done nothing that was not proper, rates have been allowed to be made so that they have killed off water transportation; so to-day it is true that there are not enough boats left on the Mississippi River to save the lives of the people when a flood comes. We found when the war came on that we lacked transportation. I spoke once with a member of the Shipping Board, urging him to take some steps to use the Mississippi River so that the people from the central part of the country, where the embargoes were laid, could have the advantage of that means of transportation. Every sidetrack practically between New York, Pittsburgh, Buffalo, and the seaboard was filled with cars that could not be moved—and he said to me "That would make too long and roundabout a route; it is too far from New Orleans to Liverpool." And within the ensuing six weeks after that conversation there were 243 vessels lying in the harbor of New York most of them loaded and ready to sail, but they could not get out because they had no coal, and in that time three round trips could have been made from New Orleans to Liverpool!

The CHAIRMAN. Of course, your present remarks have to do with a larger question which I hope we may be able to deal with very soon and which is perhaps the most important thing before the American people now, in my opinion; but with regard to this particular bill that we are now considering, what is your opinion as to whether it should pass or not?

Mr. THOMPSON. I am frank to say, Senator, that I would want to study it a little more before I would be willing to give an opinion as to the Southeast. With respect to the intermountain country, with the conditions there where there are no interpenetrating waterways it seems to me it is perfectly clear. If that condition were true all over the United States, I would say that the bill should be passed exactly as it is. I am not quite sure whether it would not make some injustice in the Southeast, where the whole country is interpenetrated with waterways. Because other witnesses had spoken so much on the larger things, I also took that privilege. I only ca

here because this bill or something in this direction is one of the things that are necessary if we are to protect and develop the waterways and give to the people of the United States the benefit of all the transportation they should have.

The CHAIRMAN. I have no doubt that later on the committee will want to hear from you upon the broad aspects of the question—the way to coordinate our water and rail transportation facilities.

Mr. THOMPSON. I will be glad to be at the service of the committee at any time.

Senator POINDEXTER. Thank you very much for your instructive statement.

The CHAIRMAN. Is Mr. Green here?

Mr. LINCOLN GREEN. Yes, sir.

Senator POINDEXTER. I would like to take one moment of the time of the committee to put this into the record—this clipping. I would like to call attention to what, I think, is one cause of a good deal of opposition to this bill, based upon a misconception of what the bill is. This is an article from the Wheeling, W. Va., Register, a dispatch to that paper from this city. [Reading:]

The provision of the bill, as approved by the Senate committee, is that "this shall not be construed as authorizing any common carrier to charge or receive as great compensation for a shorter as for a longer distance." This would wipe out all existing differentials and district rates and make the number of miles the freight is hauled the basis of the rate. The coal operators in the Fairmount field or the Kanawha County field, by reason of a difference of a few miles between their plants, would find their rates to the same destination different. Or the same operator, located on two railroad lines, would find his rate to the same destination would differ over the two railroads, because one might possess a shorter route to the point of delivery than the other.

There is no such effect to be anticipated from the terms of the bill, and no such provision in the bill.

The CHAIRMAN. Now, Mr. Green, will you state your name and your relation to the subject matter under consideration here?

STATEMENT OF MR. LINCOLN GREEN, VICE PRESIDENT, SOUTHERN RAILWAY CO., WASHINGTON, D. C.

Mr. GREEN. Mr. Chairman and members of the committee. I am vice president of the Southern Railway Co., and I speak to-day on behalf of that corporate interest and all of its affiliated lines—the Cincinnati, New Orleans & Texas Pacific, the Alabama Great Southern, the New Orleans & Northeastern Railroad Co., the Georgia, Southern & Florida Railway Co., and by request of Mr. Milton H. Smith, president, for the Louisville & Nashville Railroad Co., and by request of Mr. A. R. Lawton, president, for the Central of Georgia Railway Co.

I have spent upward of 35 years in this southern railroad situation, striving honestly to develop the resources of the South. I was chairman of the fourth section committee of railroad traffic men selected to work out a revision of the fourth section system of rates in the South, under the Interstate Commerce Commission's general fourth section order, following its review in conformity with the 1910 amendment. I merely mention those facts to indicate that I have some reasonable familiarity with this situation. It is impossible for me, within 15 minutes' time or an hour's time, to present all that I would like to say

on this question. If I am to be limited to that extent, all that I can now say, for the interests for which I speak, is that we are very earnestly in opposition to the proposed amendment, because we believe it to be unwise, and that it would be very greatly injurious to our section.

I have one illustration that has come to my attention within the week, showing the need of some latitude on the part of the commission or of the carriers to meet the competition at these points where it exists, of a character beyond the control of the transportation lines. For a century or more, perhaps, the city of New Orleans obtained its supply of coal from the Pittsburgh district by barges and boats. With the introduction of Alabama coal, a contest began for the New Orleans coal trade, which led to a depression in the transportation charge from the Alabama district to New Orleans, and to a departure from the long-and-short-haul principle. That rate was at first, I think, $1.75, and finally got down as low as $1.25, and then back to $1.40, where it stood for many years. I think to-day, since the advances made by the Railroad Administration, it is probably $2, but it is still lower than to some of the intermediate territory.

The CHAIRMAN. That is between Alabama and New Orleans?

Mr. GREEN. Yes, sir. The Pittsburgh coal has, in the meantime, virtually disappared from the New Orleans market.

The CHAIRMAN. Why?

Mr. GREEN. I am going to tell you. Not merely because of the Alabama competition, but because a few years ago fuel oil from the Texas district was introduced there and has been used by some of the larger steam industries since, and because of that competition, added to the Alabama competition, and because of the very largely increased demand for the Pittsburgh coal in other directions, they have retired from that market; so that the competition has dwindled down to the Alabama coal versus the Texas oil.

Now, a new "Richmond" has entered the field. Fuel oil from the Tampico district of Mexico is coming in there. I am told by an Alabama coal operator within the week that they are apprehensive that they are going to lose their entire steam-coal business in the city of New Orleans—and that is the largest market they have. This oil, it is stated, is sold in New Orleans today for $1 per barrel, and it is stated to me that about four or four and a half barrels equals, in steaming qualities, a ton of coal. Information that I collected several years ago, in connection with fuel-oil shipped from the Atlantic coast, was to the effect that about three and one-half barrels would equal a ton of coal; but even assuming four and a half barrels, or $4.50 per ton for that oil delivered at New Orleans, the Alabama coal operator could not to-day, with his present mining costs and the present transportation charge, meet that competition.

Senator POINDEXTER. What has that got to do with the long-and-short-haul clause?

Mr. GREEN. Because it is a long-and-short-haul question. He has a departure from the long-and-short-haul principle, but he got to have a further reduction.

Senator POINDEXTER. What does that departure enable him to do?

Mr. GREEN. Up to this time he has been able to sell his coal in New Orleans, principally.

Senator POINDEXTER. So far as the question of the violation of the long-and-short-haul provision of the Interstate Commerce Act is concerned, that is not exactly what he is doing. What he does is this: In order to sell his coal there, he levies a tax upon the intermediate points. Now, if you are like most of the people in the south, you are opposed, generally speaking, to a system of protective tariff, but a protective tariff upon fuel oil from Mexico, whatever burden it was upon the people, would be distributed generally, without discrimination, upon all the people in that section, at least; but you have a system by which, in order to protect your coal market, you levy a tax upon certain communities or towns, and those who are least able to bear it.

Mr. GREEN. Senator, I can not agree with you, sir. If we did not meet this competition at New Orleans, if we retired from the New Orleans coal market, certainly the rate on coal at the intermediate point would not be any less than it is now; and I contend, sir, that there is no vice in a long-and-short haul departure, subject to these conditions: First, that your intermediate rate is a reasonable rate; second, that the rate that you reduce yields some profit to the carrier; and, finally, that it does not go beyond the necessities of the competition. Suppose we were to retire from the New Orleans market—and that is the alternative you would give us—you give us the choice of sacrifice. Under the fourth section principle we must either level down our intermediate rates, and make a sacrifice there in order to obtain business to the point where the competition exists, or we must put up the rate at the competitive point, and retire from that business. Now, we have here a new situation which the commission must meet and say how far we must go to meet it. That oil from Texas is transported by water.

Senator POMERENE. Let me suggest this: Your proposition, then, s not one of transportation, but you are asking this committee to anction by law a rule which will enable you to meet the difference n the steam value of two different products. That is what it mounts to.

Senator POINDEXTER. By levying a tax upon certain communities.

Mr. GREEN. Excuse me, sir; I do not think I am asking that anything of the sort be done. I am asking you to enable the carrier, so r as reasonably possible, to enable the Alabama operator to stay in e New Orleans market in competition with this new fuel; and I n asking you to let the law stand as it is at present, and let the mmission determine how far we may reasonably go in the matter. do not think the carriers can alone meet that competition. I think e coal operators have got to, in some way, reduce their costs and eir price, and share in the reduction. I think if you do not give us e opportunity to meet that situation, you will close the New Orleans rket to the Alabama operators.

Now, that may be a wise thing to do; it may be proper. It is not rely a question of rates; it is not merely a question of the cost of ning. There are other incidental uses to which that oil is put. The erican Sugar Refining Co., one of the largest refiners in New Orns, has already adopted it as fuel.

Senator POINDEXTER. The law does not prohibit you from making h a rate to New Orleans as to meet the competition of fuel oil

from Tampico. There is nothing in the law that prevents you from putting that rate down. You are not asking the Interstate Commerce Commission to permit you to do that, and your right to do it is not affected by anything in the statute. What you want is an opportunity to go before the Interstate Commerce Commission and ask for a very different thing, namely, to allow you to raise the rate to the intermediate point to a higher figure than that which you make to New Orleans; and you say that they should allow you to do it to the extent that they may determine upon.

Mr. GREEN. I beg your pardon, sir.

Senator POINDEXTER. Just let me finish, please.

Mr. GREEN. Certainly.

Senator POINDEXTER. It will do you no good unless they allow you to go to such an extent as will enable you to meet the competition and yet earn a profit upon your transportation service. In other words, to allow you to make such a differential between the rate charged at the terminal point and the rate charged at the intermediate point, at the expense of the intermediate point, and with an unfavorable differential at the immediate point, that you can participate in this market, which otherwise you could not do.

Mr. GREEN. Mr. Chairman, I fear I have presented this matter very poorly, if I have left an impression of that sort upon the Senator's mind. I do not propose to advance any rate at any intermediate point. I have not in my own practice advanced, nor have I heard of anybody else advancing, a rate to an intermediate point or to any other point to offset a reduction made to meet competitive conditions under the fourth section.

Senator POINDEXTER. I will let my statement stand as to what the result will be. You may not use the word "advance," but in any event the rate at the intermediate point will be higher than at the terminal point?

Mr. GREEN. Yes, sir; just as it is at present. The difference will be greater if we reduce the terminal point and not the intermediate point.

The CHAIRMAN. How far back from New Orleans is the rate higher than at New Orleans?

Mr. GREEN. There is very little intervening territory where the combination would affect the total on the coal rates. That is not so on the general mechandise rates.

The CHAIRMAN. I want to know how much the railroads would lose if the rates at the intermediate points were no higher than at New Orleans.

Mr. GREEN. I could not answer that question offhand, of course without some analysis of the tonnage; but I should say, as between giving up the New Orleans business, taking the choice of sacrifice that it would cost us less to surrender the steam coal trade of New Orleans than to reduce all of our intermediate rates to that level.

The CHAIRMAN. You would not have to reduce all of your intermediate rates.

Mr. GREEN. Well, I mean those rates that are higher.

The CHAIRMAN. Only those that are higher?

Mr. GREEN. Yes; I would say that, offhand.

The CHAIRMAN. But you can give us no information as to the loss in revenue to the railroads leading from the Alabama co

mines to New Orleans, if the rates at intermediate points were no higher than to New Orleans?

Mr. GREEN. I could give no accurate information on that now, but let me say this: There is a new element which has come in at New Orleans within the week, and it is something that arises in the daily course of business. The same situation exists with respect to the coal rates from the Alabama coal fields, from the Tennessee field, from the southwestern Virginia field, to all South Atlantic ports. There has been no reduction to meet the oil competition, but because of competition coming down from the Pennsylvania district through Baltimore, and from the West Virginia field, through Hampton Roads, where they use schooners, the rates from the Tennessee, Alabama, and southwestern Virginia fields to Charleston, Savannah, Brunswick, and Jacksonville are lower than to intermediate points, and certainly if this requirement of the fourth section is absolutely enforced, we must then choose between putting those rates up and sacrificing that business at the coast points, or reducing those intermediate rates; and the intermediate traffic is vastly greater than the tonnage to the coast. I do not say that would immediately follow, because the competition does not exist to-day, but with a restoration of shipping on the coast that condition certainly would be brought about.

The CHAIRMAN. We could cure the oil situation by the judicious levying of an import tariff?

Mr. GREEN. Yes, sir; that would relieve us of that if that were done. I think, perhaps, that is the belief in some quarters.

The CHAIRMAN. That, perhaps, is not the view of all the Members of Congress.

Mr. GREEN. I do not know.

The CHAIRMAN. Mr. Green, you may enlarge upon this statement of yours by filing a brief, as Mr. Thom has done, and we will be very glad to receive it; and it will be considered just as carefully as though you were to state it orally.

Mr. GREEN. Very well, sir. I have really digressed from what I had intended to say, because I was crowded for time, and I wanted to get this practical situation before you.

The CHAIRMAN. Of course, that general situation has been developed here a great many times, and I think the committee is fully informed with regard to the effect it would have.

Mr. GREEN. I had the impression, Senator, that perhaps it never had been presented very thoroughly with respect to the Southeastern situation, and I hope to have a chance to do that.

Senator POINDEXTER. Is there any water competition in the transportation of coal from Alabama to New Orleans, on the Warrior River and the Mississippi Sound?

Mr. GREEN. That has been recently instituted by the Railroad Administration. There was established on the Warrior River by private interests a set of barges, propelled by gasoline engines, I think, which were said to handle that coal very cheaply. It was claimed that they could haul it to Mobile at 50 cents a ton. They did handle coal down the river to both Mobile and New Orleans, but the enterprise failed. Mr. McAdoo, I understand, purchased that equipment. He has added some new equipment, or is doing something to it. He has put in rates there on coal from the mines that are

located on the river 20 per cent less than the rates charged by the railroad.

Senator POINDEXTER. Did the failure of that enterprise have any connection with your ability, under the relief you had obtained from the application of the fourth section, to haul coal over your railroad at a rate which was low enough to get the business, regardless of whether you earned anything to pay dividends, or the interest on your investment?

Mr. GREEN. I think not. Certainly the rail carriers made no change in the rates because of that competition, and I want to say, in answer to what you inferentially have said, that I have never made a rate—and I do not think anybody else in my acquaintance has ever made a rate—without reference to what it cost us to do the business and without reference to some profit from the transaction.

Senator POINDEXTER. Does that mean profit enough to pay the necessary interest on your debt?

Mr. GREEN. No, sir.

Senator POINDEXTER. And a return to the investors?

Mr. GREEN. No, sir; and no man on earth can make rates now, or ever will, in my opinion, be able to make rates with the idea that he is going to produce a return on the investment or a dividend for the stockholders. Transportation is a part of commerce—it is commerce—it is governed by all the laws of commerce, and the rates have got to yield to the needs of commerce and not to the needs of the owners. It is not at all a question whether or not you are going to get all that you are probably entitled to get; it is a question of getting what you can, always, of course, subject to getting some profit out of it.

The CHAIRMAN. I think we all realize that the railroads of the country must earn enough to maintain themselves and pay a reasonable return upon the capital invested.

Mr. GREEN. Yes.

The CHAIRMAN. Of course, they have got to do that, but this is rather a question of localities and communities—really a question of discrimination.

Mr. GREEN. I understand that, sir; but I merely wish to say this; that just in so far as you deprive the railroads of earnings now, so much more have you to provide for their revenues in the future, and, in my judgment, there is a limit beyond which you can not go in providing those revenues by increased rates. I do not think you can meet the situation by continually pyramiding the rate system of this country. I think a great many of them will have to go down.

The CHAIRMAN. That may be so, but the revenue necessary for the operation of the railroads has got to come from some place, and I think every member of Congress recognizzes that.

Senator Poindexter. New Orleans, so far as concerns its ability to pay, and leaving out this question of competition, and speaking of this proposition you just mentioned, of reducing rates—New Orleans, as a community, can afford to pay as high a rate as other communities on the same line?

Mr. Green. Yes.

Senator POINDEXTER. And speaking from personal observation, I would say that the communities that have paid these higher rates,

while they would like to see them lower, do not object to the high rate so much as they do to other communities being given lower rates than they have to pay for less service.

Mr. GREEN. Well, Senator, you are undoubtedly correct in stating that New Orleans can afford to pay as much as any intermediate point, as an abstract proposition; but New Orleans, like any other place, is not going to pay more for Alabama coal than it can get Texas oil or Mexican oil for, and get the same results from it.

Senator POINDEXTER. The consequence is that New Orleans is really not concerned in this question, is it not?

Mr. GREEN. No; not if she wants to substitute oil for coal. If the oil is cheaper, she will use the oil.

Senator POINDEXTER. And she will be all right then?

Mr. GREEN. Yes; but the Alabama operator is vitally interested. He is the man who brings it to me; not New Orleans.

The CHAIRMAN. We would be very glad if you would present a paper or brief, Mr. Green.

Mr. GREEN. I shall certainly take advantage of that privilege, sir.

The CHAIRMAN. A brief prepared by Mr. Thom will be placed in the record at this point.

(The brief referred to is here printed in full as follows:)

DISCUSSION OF PROPOSED AMENDMENT OF SECTION 4 OF THE ACT TO REGULATE COMMERCE—LONG-AND-SHORT-HAUL CLAUSE.

By ALFRED P. THOM, General Counsel Association of Railway Executives.

1. PRIOR TO 1910.

The agitation for an absolute prohibition against lower rates at more distant points than at intermediate points has been kept alive mainly by representatives of the intermountain communities. A feeling of injustice was propagated and fostered under the conditions existing prior to 1910 when the railroads were free to make lower rates for the longer haul than for the shorter haul if they could justify them by a showing of dissimilar circumstances and conditions. The people of these communities were educated to believe not only that the privilege enjoyed by the railroads had been abused, but that there were no circumstances or conditions under which lower rates could be justified for the longer haul than for the shorter haul and that the enactment of an absolute long-and-short-haul law would be the means by which these intermountain communities would obtain the benefit of all rates that were made to the Pacific coast.

At the hearings on the proposed amendment before a subcommittee of the Senate Committee on Interstate Commerce, Sixty-fifth Congress, second session, Interstate Commerce Commissioner Clark (p. 528) said:

"The railroad lines have for many years, and almost from the start, adopted the policy of attempting to meet water competition. There is some difference of opinion, I guess—some controversy—as to whether or not they attempted to meet it or attempted to destroy it. *Whatever their attempt was, they have never destroyed it.* * * * In attempting to meet that competition—I use the phrase 'meet the competition' because *I have never believed that there was any hope of destroying it*—I think that in a great many instances the policy of the railroads charging the higher rates to the intermediate points was carried to an unreasonable and indefensible extreme."

The history of transcontinental rate making prior to 1910 has been completely given and frankly discussed before the congressional committees by witnesses for the transcontinental railroads and may well be dismissed with the foregoing observation of an impartial spokesman for the Interstate Commerce Commission. The only purpose which it now serves is to show that it was the method of rate making *prior to 1910* which laid the foundation of prejudice and agitation which has survived since the amendment of the law in 1910.

2. SINCE 1910.

By the passage of the 1910 amendment Congress deprived the railroads of all discretion and authority to make lower rates at more distant points than at intermediate points by prohibiting lower rates for the longer than for the shorter haul except—

"That upon application to the Interstate Commerce Commission such common carrier may in special cases, after investigation, be authorized by the commission to charge less for longer than for shorter distances for the transportation of passengers or property."

Therefore, the claim that unjust discrimination against intermediate points in the intermountain country has been permitted since the amendment of 1910, or at least since the power of the commission was sustained by the Supreme Court in 1914, does not lie against the railroads. It is a direct indictment of the Interstate Commerce Commission. Any unbiased reader of the history of transcontinental rate making since 1910, which will be found in the record of the Committee on Interstate Commerce, and of Commissioner Clark's frank explanation of the exercise of the authority vested in the commission by the 1910 amendment, will be bound to acquit the commission of failure to perform its duty with which it has been virtually charged.

After diversion of ships from the Panama Canal to trans-Atlantic service which resulted from the European war, the commission required that the rates which it had authorized to meet water competition be realigned so that no lower rates should prevail to the Pacific coast than to intermediate points in the intermountain country. *No lower rates are now in effect* and no just cause of complaint now exists. What is here proposed is that Congress withdraw the discretion which was vested in the commission by the 1910 amendment by repealing that part of the fourth section reading:

"That upon application to the Interstate Commerce Commission such common carrier may in special cases, after investigation, be authorized by the commission to charge less for longer than for shorter distances for the transportation of passengers or property."

If Congress is unwilling to trust the Interstate Commerce Commission to administer the fourth section of the law, how can the same commission be trusted to administer all of the other sections of the law? The repeal of that part of the fourth section which I have quoted would leave an absolute or inflexible long and short haul rule in force.

The necessities of flexibility which were recognized by Congress in vesting certain discretion in the Interstate Commerce Commission may be subdivided as follows:

(A) TO MEET WATER COMPETITION.

While the chief commercial benefit to accrue from the encouragement of a merchant marine is the expansion of foreign commerce, it is not now denied by any modern railroad officer or any other rational citizen that reasonable encouragement should also be given to steamship lines to engage in coastwise service and commerce on the inland waterways of the country. The enormous expenditure of money for the construction of the Panama Canal and the substantial annual appropriations of Congress for rivers and harbors have been a generous encouragement of domestic steamship service, of which the development of extensive and regular steamship service along the Atlantic and Pacific coasts, and the operation of 49 steamers, with a capacity of approximately 1,000,000 tons per annum in each direction, through the Panama Canal between Atlantic and Pacific ports of the United States prior to the interruption of service by slides in the canal and before the fabulous profits which attracted the canal steamers to trans-Atlantic service, afforded abundant testimony. But what reasonable man will say that those avenues of transportation should be given a monopoly?

The proponents of an inflexible long-and-short-haul clause argue "that the railroads will be compelled to charge a reasonable rate at the terminals and at intermediate points in order to earn necessary return upon capital invested." (Senator Poindexter's report on Senate bill 313, p. 11). The fact is that rates at the terminals as high as reasonable rates charged at interior points would be prohibitive and would therefore contribute nothing toward a return upon capital invested because the freight would move by water. The rate at which the terminal freight must be carried is fixed by the steamships. The *aggregate*

volume of the traffic of a railroad company must yield a fair return upon the invested capital. If the railroad *be prohbited* from competing for a share of the terminal traffic, it must forego whatever profit above the cost of handling that traffic would contribute and the deficiency in aggregate income must be derived from other traffic. The great fallacy about the reasoning of some of the people of these intermediate communities is that a burden is imposed upon them by permitting the railroads to make rates neces ary to secure a share of the terminal traffic, which would otherwise move by water, while, as a matter of fact, such increased burden will be imposed upon them whenever the railroads are prohibited from deriving some of their profit from the terminal traffic for which they can compete with the water. In this connection, the following quotation is taken from "Noyes on American Railroad Rates," pages 94 and 112:

"The statement that low rates at competitive points impose heavier burdens upon local traffic is fallacious. The railroad could not get the through traffic at all unless it made low rates. Unless carried at an actual loss—impossible from an economic standpoint—it does the local traffic no harm. If it pay any profit, although insufficient to contribute to fixed charges, it reduces the amount necessary to be raised from local shipments. Low rates at competitive points, by producing paying business not otherwise obtainable, in the end benefits the local traffic by enabling the railroad to reduce the rates thereon. Moreover, a reduction of through rates to a competitive point generally benefits the surrounding territory. The low through rate to the distributing center plus the local rate to the near-by station is often less than the regular rate to that station, even though it be nearer the shipping point than the distributing center.

"A statute absolutely denying to a railroad the right to charge less for the longer haul, while seeming just at first glance, would contravene those elementary principles which we have considered. Charges could no longer be based upon the value of the service. A railroad must take business from competitive points at competitive rates, and if it can not charge intermediate traffic proportionately more it must often go into bankruptcy. And if it must subsist upon the local traffic alone, the same result is likely to follow. Instead of the railroad losing money on long hauls and making it up on the short, whatever is received from through traffic above the additional expense of earning it is extra and goes that far toward maintaining the railroad. Inequalities in charges in favor of the long haul manifestly constitute discriminations between localities, but they are not unjust unless the differences in charges fail to correspond to the differences in conditions."

Whether the rates which the railroads must make at the terminals to secure a share of the traffic competitive with the water do yield a reasonable profit above the cost of handling, and whether the rates are as high as can be obtained in competition with the water, are questions about which the railroads have no discretion whatever under the existing statute. The Interstate Commerce Commission will not authorize rates that are lower than necessary to fairly compete with steamship lines and will not authorize rates that can not be shown to yield a profit above the cost of handling. The exercise of this discretion by the Interstate Commerce Commission may prevent steamship monopoly, but will not discourage the competition of steamship lines which are willing to compete on fair terms and are satisfied with a reasonable share of the traffic. Interstate Commerce Commissioner Clark, in his testimony before the subcommittee of the Senate Committee on Interstate Commerce, said:

"It is argued that the money of the people has been spent by the Government in constructing the canal, and that, therefore, the water service through the canal should be promoted to the largest possible extent, regardless of its effect upon the railroads. *We have felt that the canal is not the only transcontinental agency of transportation that has been fostered and assisted by the Government and by the money of the people.* The first transcontinental railroad line was given by the Federal Government sums of money and public lands which probably—now, this is just a guess—probably exceeded in value the entire cost of the Panama Canal. Large land grants were given to other lines which have since become transcontinental lines; and so we can not entirely lose sight of the fact that the Government has fostered and encouraged the building of the transcontinental railroads as well as the Panama Canal, and we have felt that it is our duty, and we feel the weight of the responsibility of that duty, with regard to these transcontinental rates, to try to administer this law in such

way that *the service of the canal shall not have an advantage which will cripple the transcontinental railroads, and that the railroads shall have no advantage which will permit them to prevent the proper utilization of this waterway.*"

In delivering the recent opinion of the Supreme Court of the United States in the Skinner & Eddy case, Mr. Justice Brandeis said:

"A reduction made under the authority of a fourth section order after full hearing must have been found by the commission to have been reasonably necessary in order to preserve competition between the rail and the water carrier. * * * Transportation conditions are not static; *the oppressor of to-day may to-morrow be the oppressed. And in order to preserve competition between rail and water carriers it is necessary that the commission's power to approve a modification of rates be as broad as it is to approve a modification in order to prevent unjust discrimination.*"

It is not an undue discrimination against intermediate points to permit the railroads to carry some of the traffic to more distant points which would otherwise move by water at lower rates, and the most ardent advocate of the development of water transportation can not fairly claim that ships should be given a monopoly by prohibiting the railroads from engaging in the same traffic, so long as the same governmental agency which is empowered to decide what are reasonable rates and what constitutes discrimination under other sections of the law is intrusted with the discretion to determine what rail rates can fairly be made in competition with the water with justice to both avenues of transportation and without undue discrimination against intermediate points.

Commissioner Clark, in testifying before the subcommittee of the Senate, declared:

"Personally, *I very much doubt if it would be of advantage to the interior cities to have the rates blanketed*, but admitting for the argument that that would be of advantage to them, I am clearly of the opinion that *it would not be to their advantage to have the carriers go out of the terminal business, in competition with the water rates*, taking either Reno or Spokane as illustrations.

"If the rail lines maintained rates on a given commodity to the coast which were higher relatively on distance relations to the rates to the intermediate points, the coast cities would get that commodity by water at whatever rate they could get by the water route. The interior cities could get it only all rail or by rail from the ports, and the only advantage that I see that the inland city could have on that commodity which it wished to consume at home or distribute would be the possibility of the water rates to the ports plus the rail rates from the ports being less that the all-rail rates. *I can not see that the interior city would gain any advantage whatever;* in fact, it seems to me it would distinctly lose in the matter of distributing goods, and all of these cases before us have been primarily based on the desire of these cities to compete with each other in the distribution of goods.

"It seems to me entirely clear that if the rates, all rail, to Spokane, for example—reasonable rates—were as high as the rates by water to Seattle plus the rail rates from Seattle to Spokane, Seattle would have a decided advantage over Spokane in distributing goods at every point between Seattle and Spokane, and could even sell in Spokane at the same freight charge that the Spokane merchant would pay.

"We feel that *one purpose of the act to regulate commerce*, coming next in order to the two principles which I referred to—one, that the rates shall be reasonable, and, two, that they shall be free from unjust discrimination, undue preference, and prejudice, *is to promote commerce.*

"The simple way to regulate rates is to apply a strict distance tariff, but it is not the way, in my judgment, to promote commerce and recognize that competition between carriers which this act and others have always jealously preserved."

The revenues of the railroads are now clearly inadequate. Obviously, they could not afford to reduce their rates upon a substantial volume of traffic at the terminals, and it is quite as obvious that their revenue will be depleted if they are deprived of the traffic at the terminals, from which they have heretofore derived and may hereafter earn a profit; so that it would be absolutely inconsistent with the present effort of Congress to restore the vitality and credit of the railroad that an amendment of the fourth section should be enacted which would deprive them of a substantial part of their revenue, whichever horn of the dilemma they might have to choose. The intention of Congress that the future revenue of the railroads shall be adequate to meet their legitimate requirements and efficiently serve the public certainly would

not be promoted by an amendment of the fourth section which would compel the railroads to give up all of the traffic that is accessible to the waterways. If the guarantee of a specific return upon capital investment was being made by the Government, it is hardly conceivable that Congress would favorably contemplate imposing on other traffic or upon the taxpayers of the country the deficiency in revenue which would directly result from the enforced withdrawal of the railroads from participating in an important volume of business from which a profit can be derived

(B) LONGER LINE PERMITTED TO MEET RATE OF SHORTER LINE.

Between two important terminals, the rates may be made by the short line, over a distance of say 1,000 miles, without exceeding the terminal rates at intermediate points, but the same important terminals may be connected by another line with a distance of 1,200 miles. The rates at all intermediate points may be just as reasonable and even no more per mile than the rates at the intermediate points on the short line, and there is no reason why those reasonable rates should be lower because the longer line finds it necessary to make the same rate between its two terminals as the short line in order to secure a share of the important terminal traffic. If required to pay that penalty, the longer line would have to forego participation in the traffic between the terminals and give the short line a monopoly of it. The intermediate communities on the long line are not in the slightest degree prejudiced by that line being authorized to meet the short-line rates between the terminals, while the terminal cities are given the benefit of the facilities and competition in service of the two or more lines which connect them. The Interstate Commerce Commission therefore grants the long line the necessary relief from the prohibition of the fourth section to enable it to compete on equal terms with the short line for the terminal business, and the rate fabric throughout the entire country is filled with such equalizations. Some idea of the necessity of this form of relief may be gathered from Commissioner Clark's recent testimony before the Poindexter committee, as follows:

"Now, as to the effect of the application of an absolute long-and-short-haul rule: In the central freight association and trunk-line territory, which I have described, it would break up completely and revolutionize a system of rate making which has obtained for many years, and which, as I have said, is more satisfactory to the communities served by the railroads, and provocative of less complaints before our commission than the rates in any other section of the country. It would change the commercial relationships of those points which, during all that period have been grouped under common rates, and which have established and developed their business on that basis. It would eliminate from many of those commercial localities the benefits of competitive carriers, and when I speak of competitive carriers I mean the competition in service. It would eliminate the service of some of the carriers, because they would not reduce their entire scale of rates to the level of the lower rate at the more distant point, which would result in their maintaining rates higher at the more distant points than those maintained by competing roads, and that is tantamount to going out of the business. They might as well not have any rate, as to have a rate substantially higher than another road.

"It would have the same result, not so widespread, in the Southwest. The rival communities and commercial centers in that section are more widely separated that they are in the East.

"It would again revolutionize a system of rate making in the Southeast, which as I have explained, has within the last couple of years been revolutionized by the order of the commission."

The inability of a longer line to meet the rate of a shorter line between common terminals would very greatly circumscribe the choice of routes by which the shipper could exercise the privilege which section 6 of the statute was designed to accord him—often limiting the shipper to the use of one line. Furthermore, while some of the Members of Congress are seeking means of sustaining the so-called weak lines without unduly enriching the so-called strong lines, it may be appropriate to point out that often, if not usually, the long line competing between important terminals is the weak line, and that an inflexible long and short haul prohibition would deprive such so-called weak lines of a very substantial volume of traffic and give the stronger lines a monopoly of it.

(C) TO MEET MARKET CONDITIONS.

Under the discretion now vested in the commission, a carrier serving one producing point is frequently authorized to make rates to a common consuming market in competition with another carrier serving another producing point, where, for example, the distance from the first-named point of production by the first carrier is so much longer than the distance from the second-named point of production by the second carrier that the first carrier would be unable to make a rate which would permit the producer on its line to meet the competition of the producer on the second line if it were required to maintain that rate as a maximum at all intermediate points. Under an inflexible long and short haul provision, the public would be deprived of this competition of producing markets.

3. CONCLUSION.

It is therefore submitted—

First, that since the suspension of water competition through the canal, no lower rates are in effect to the Pacific Coast than to the intermediate points in the Intermountain country.

Second, that the existing statute empowers and requires the Interstate Commerce Commission to see that the Intermountain communities and all other intermediate points in the country shall enjoy just and reasonable rates and shall not be subjected to any undue discrimination.

Third, that the interests of the whole country, not excepting the Intermountain country, are best served by sufficient flexibility of the long-and-short-haul provision to permit such exceptions as will give the public the benefit of the service and facilities of two or more lines between two given points by enabling the longer line to meet the rates of the shorter line; as will give the producers in one section of the country an opportunity to meet the competition of producers in another section of the country in common markets, with corresponding benefit to the consumers in these markets; and as will enable the railroads to earn a part of their revenue upon traffic that will otherwise be diverted entirely to water craft, so long as the Interstate Commerce Commission in every case, and the carrier in no case, shall determine the justice and propriety of such exceptions. The proposed amendment of the existing fourth section would impose unnecessary restrictions upon competition between carriers and between markets to the prejudice of producers, consumers, and carriers, and such an amendment is entirely unnecessary for the protection of any community inasmuch as the existing statute leaves no discretion whatever to the carriers and delegates to the Interstate Commerce Commission only the same kind of administrative authority as the other provisions of the statute, thereby affording adequate protection to the interests of every community.

The CHAIRMAN. The committee hoped to be able to hear Mr. Small, of the House of Representatives; but it seems it is not convenient for him to be here.

Senator POINDEXTER. I had a telephone call from Representative Small this morning, and he said he would like to appear before the committee in support of this bill, in the capacity of Vice-President of the National Rivers and Harbors Congress, dealing with the effect of the violations of the fourth section upon water transportation, which is a subject of concern to the National Rivers and Harbors Congress. He said he had a previous important engagement this morning at one of the departments and, for that reason, could not come here.

The CHAIRMAN. There may be some opportunity for us to arrange to hear him in the future. So far as I know, we have now heard all the witnesses who have indicated a desire to be heard, and the hearings will be considered at an end.

(Whereupon, at 12.15 o'clock p. m., the hearings were closed.)

INDEX.

	Page.
American railroad rates (Judge W. C. Noyes)	196
Attitude of short-line railroads to Poindexter bill	126
Barlow, Henry C. (Chicago Association of Commerce), statement of	4
Ballou, Sidney (Honolulu, Hawaii), statement of	261
Chandler, W. H. (Chamber of Commerce, Boston), statement of	46
Caskie M. M. (Southern Freight Traffic League), statement of	101
Cotterill, Charles E. (Memphis Chamber of Commerce), statement of	114
Clark, Hon. Edgar E. (Interstate Commerce Commission), statement of	199
Campbell, J. B. (Merchants' Association, Spokane, Wash.), statement of	276
Davis, Gov. D. W. (Idaho), statement of	28
Discussion on proposed amendment of section 4 of the act to regulate commerce—long-and-short-haul clause (A. P. Thom)	29
Effect of rigid application of fourth section	151
Fourth section board (summary)	7
Ford, J. A. (Spokane, Wash., Chamber of Commerce), statement of	133
Gilham, Benjamin (Chamber of Commerce, Macon, Ga.), statement of	81
Gothlin, O. P. (Indiana), statement of	89
Gregory, H. M. (Little Rock, Ark.), statement of	115
Gooding, Hon. F. R. (Idaho), statement of	155
Graff, G. B. (Boise, Idaho, Commercial Club), statement of	217
Green, Lincoln (Southern Railway Co.), statement of	287
Lincoln, James C. (Merchants' Association, New York), statement of	23–29
Loos, Karl (California Fruit Growers), statement of	257
Lyman, Charles A. (farm organizations), Washington, D. C., statement of	259
Lyon, Frank (Washington, D. C.), statement of	265
Minneapolis Steel Machinery Co. (telegram)	57
Morgan, J. A. (Houston, Tex.), statement of	64
Martin, B. F. (Natchez Chamber of Commerce), statement of	135
Masman, Harry F. (Charleston Traffic Bureau), statement of	159
McCarthy, W. S. (Traffic Bureau, Utah), statement of	164
McGehee, Abner J. (Association of Commerce, Jackson, Tenn.), statement of	232
National Rivers and Harbors Congress, declaration of principles	129
Rich, Edgar J. (Boston, Mass.), statement of	74–85
Tiffany, Charles H. (New England Paper & Pulp Traffic Association), statement of	161
Thompson, S. A. (National Rivers and Harbors Congress), statement of	284
Wilson, George P. (Philadelphia Chamber of Commerce), statement of	177
Wettrick, S. J. (Seattle Chamber of Commerce), statement of	181
Water competition (Prof. Hadley, of Yale), extract	197

3 6105 110 728 032